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SAN FRANCISCO PORT COMMISSION

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AGENDA
TUESDAY, SEPTEMBER 8, 2009
2:00 P.M. CLOSED SESSION
3:15 P.M. OPEN SESSION
PORT COMMISSION HEARING ROOM, SECOND FLOOR
FERRY BUILDING, SAN FRANCISCO, CA 94111

The Port Commission Agenda as well as Staff Reports/Explanatory Documents available to the public and provided to the Commission are posted on the Port's Website at www.sfport.com. The agenda packet is also available at the Pier 1 Reception Desk.

If any materials related to an item on this agenda have been distributed to the Port Commission after distribution of the agenda packet, those materials are available for public inspection at the Port Commission Secretary's office located at Pier 1 during normal office hours.

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GOVERNMENT
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1. **CALL TO ORDER / ROLL CALL**

2. **APPROVAL OF MINUTES** - August 11, 2009

3. **PUBLIC COMMENT ON EXECUTIVE SESSION**

4. **EXECUTIVE SESSION**

   A. Vote on whether to hold closed session to confer with Legal Counsel and Real Property Negotiator.

      (1) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – This is specifically authorized under California Government Code Section 54956.8. ***This session is closed to any non-City/Port representative.****

         a. Property: Pier 15/17 (Embarcadero at Green Street)
            Person Negotiating: Port: Byron Rhett, Deputy Director, Planning and Development

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*The Exploratorium: Dennis Bartels

Under Negotiation: _____ Price _____Terms of Payment X Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at Pier 15/17.

5. RECONVENE IN OPEN SESSION

A. Possible report on actions taken in closed session pursuant to Government Code Section 54957.1 and San Francisco Administrative Code Section 67.12.

B. Vote in open session on whether to disclose any or all executive session discussions pursuant to Government Code Section 54957.1 and San Francisco Administrative Code Section 67.12.

6. ANNOUNCEMENT OF PROHIBITION OF SOUND PRODUCING DEVICES DURING THE MEETING

Please be advised that the ringing of and use of cell phones, pagers, and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic device.

7. EXECUTIVE

A. Executive Director's Report
- Extension of the period to receive Public Comment on the Draft Pier 70 Preferred Master Plan
- SPUR Brown Bag on Draft Pier 70 Preferred Master Plan - Wednesday, September 2, 2009 at 12:30 p.m. at SPUR Urban Center, 654 Mission Street, San Francisco
- SF Historic Preservation Commission Meeting on Draft Pier 70 Preferred Master Plan, Wednesday, September 16, 2009 at 12:30 p.m., City Hall
- SF City Planning Commission Meeting on Draft Pier 70 Preferred Master Plan, Thursday, September 17, 2009 at 1:30 p.m., City Hall
- Coastal Clean Up Day – September 19, 2009 9 a.m. to 12 noon
- Crystal Cruises – Homeport in San Francisco Summer of 2011
- Disney Cruises – New Cruise Call in Spring 2011

8. CONSENT

A. Request approval of No Fee License to Use Property No. 14731, approximately 665 square feet of the Pier 9 Marginal Wharf to be used solely for public access and for the installation of certain improvements, between the

Port of San Francisco and the San Francisco Bay Area Water Emergency Transit Authority. (Resolution No. 09-50)

9. PLANNING & DEVELOPMENT

A. Request Adoption of the Required California Environmental Quality Act Findings and the Mitigation Monitoring and Reporting Program in connection with the lease of Piers 15 and 17 and the historic rehabilitation and redevelopment of Pier 15 by the Exploratorium, a California not-for-profit corporation (located on the Embarcadero at Green Street). (Resolution No. 09-46)

B. Request approval of the (1) Lease Disposition and Development Agreement; (2) Lease No. L-14711 for a term of 66 years; (3) Parking Agreement at Seawall Lot 321 for a term up to 16 years (located on the Embarcadero between Green, Union and Front Streets); (4) Curb Indent License No. 14714 at Pier 15 for a term up to 66 years; (5) Curb Indent License No. 14715 at Pier 17 for a term up to 66 years; (6) Curb Space License No. 14716 at Green Street for a term up to 66 years, all with the Exploratorium, a California not-for-profit Corporation; (7) Tripartite Agreement with Baydelta Maritime, Inc., a California corporation, and the Exploratorium for relocation of Baydelta Maritime, Inc.'s operations from Pier 15 to Pier 17; (8) Lease No. L-14605 for a term of 5 years with three 5-year options with Baydelta Maritime, Inc. for space at Pier 17; (9) Second Amendment to the Memorandum of Understanding, No. M-14396, with the San Francisco Municipal Transportation Agency; (10) Schematic Drawings; (11) Amendments to the *Waterfront Land Use Plan* and *Design* and *Access Element;* and Request authorization for Executive Director to file application with the San Francisco Bay Conservation and Development Commission for a Major Permit, all in connection with the lease of Pier 15 and a portion of Pier 17 (located on the Embarcadero at Green Street) and the historic rehabilitation and redevelopment of Pier 15 by the Exploratorium. (Resolution No. 09-47)

10. REAL ESTATE

A. Request authorization to award, subject to Board of Supervisors' approval, two (2) three-year leases for surface parking between the Port of San Francisco and Tower Valet Parking, Inc. Lease No. L-14750 for Bid Opportunity A: Seawall Lot 301 commonly known as the Triangle Parking Lot, (bounded by Taylor Street, Jefferson Street, and Powell Street) and SWL 314 (bounded by the Embarcadero, Bay Street, and Kearny Street); with Priority Parking-CA, LLC, Lease No. L-14747 for Bid Opportunity B: Seawall Lots 322-1 bounded by Front Street and Broadway, SWL 323 bounded by Davis Street and the Embarcadero, SWL 321 bounded by Front Street, Green Street and the Embarcadero and SWL 324 bounded by Davis Street, Front Street and the Embarcadero, all located in the Northern Waterfront. (Resolution No. 09-48)

Port of San Francisco and the San Francisco Bay Area Water Emergency Transit Authority. (Resolution No. 95-53)

9. PLANNING & DEVELOPMENT

A. Request Adoption of the Proposed California Environmental Quality Act Findings and the Mitigation Monitoring and Reporting Program in connection with the lease of Piers 70 and 72 to the Port's Pier 70 Development Partnership, consisting of Pier 70, the Esprit Apartments, a California limited partnership (located on the Southeast side of Illinois Street). (Resolution No. 95-42)

B. Request approval of the (1) Lease Termination and Lease Amendment, (2) Lease No. L-14471 (Pier 80 Hotel) for 55 years, (3) Reduction of Rent Subsidy for Lease No. L-4271 for a term up to 10 years (located on the Embarcadero between Davis Street and Front Street), (4) Land Subsidy Agreement at Pier 19 for a term up to 66 years, (5) Pier 80 Lease Extension, 14713 at Pier 19 for a term up to 66 years, (6) Pier 80 Lease Extension, 14713 at Pier 17 for a term up to 66 years, (7) Cruise Ship Terminal, 14713 at Green Street for a term up to 66 years, (8) Pier 80 Lease Extension, 14713 at Pier 19 for a term up to 66 years, (9) Pier 80 Lease Extension, 14713 at Pier 17 for a term up to 66 years, (10) Cruise Ship Terminal, 14713 at Green Street for a term up to 66 years, (11) Pier 80 Lease Extension, 14713 at Pier 19 for a term up to 66 years, (12) Pier 80 Lease Extension, 14713 at Pier 17 for a term up to 66 years, (13) Pier 80 Lease Extension, 14713 at Pier 19 for a term up to 66 years, (14) 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B. Request approval of Port Tenant In Good Standing Policy. (Resolution No. 09-49)

11. ENGINEERING

A. Informational update on the Port's Facility Assessment Program.

B. Informational presentation on the Taylor Street Improvement Project.

12. FINANCE AND ADMINISTRATION

A. Informational Update on the Port's 2008 Clean and Safe Neighborhood Parks General Obligation Bond Program.

13. NEW BUSINESS / AGENDA SETTING

- New Business
- Agenda Setting (Targeted Commission meeting, subject to change)
  - Informational presentation regarding San Francisco Municipal Transportation Agency's Bike Plan as it relates to Port property (September 22, 2009)
  - Informational presentation regarding proposed water taxi service at the Port of San Francisco (September 22, 2009)
  - Informational presentation on the Implementation of the Port's Americans With Disabilities Act (ADA) Transition Plan (September 22, 2009)
  - Proposal by United Humanitarian Mission to place a plaque honoring Russian Marines and their efforts to suppress the great fire of 1863 in San Francisco, to be located east of The Embarcadero Promenade on the wharf area north of Pier 7 at the foot of Broadway Street (September 22, 2009)
  - Request approval of Self-Operation and Maintenance of Foreign Trade Zone (September 22, 2009)
  - Request authorization to award Contract No. 2735, Security Lighting Project at Pier 80 (September 22, 2009)
  - Request authorization to award Construction Contract No. 2721 for ADA Upgrades at 401 Terry Francois Boulevard (September 22, 2009)
  - Informational presentation of an outline for a possible Waterfront Arts Program, located at several sites along the entire length of the waterfront (October 13, 2009)
  - Request authorization to award the Marine Structural and Civil Engineering Services Contract for the Pier 43 Bay Trail Link Project (October 13, 2009)
  - Request approval of the Port Commission of the City and County of San Francisco Revenue Bond Issuance, Series 2009 (the "2009 Bonds") (October 13, 2009)
  - Informational Presentation regarding SWL 351 and Northeast Embarcadero Study (October 27, 2009)

- Request authorization to enter into an Exclusive Negotiation Agreement with Seawall Lot 337 Associates, LLC to explore a mixed-use development project at SWL 337 and Pier 48 (Date to be Determined)
- Request approval of the Port's Interim Leasing Policy for Historic Structures (Date to be determined)
- Request authorization to award Pier 45 drainage improvements project (Date to be determined)
- Informational presentation on development opportunities for Seawall Lot 330 (located on The Embarcadero at Beale and Brannan Streets) (Date to be determined)
- Request authorization to enter into a Memorandum of Understanding with the San Francisco Municipal Transportation Agency for the Port of San Francisco to relinquish its rights to cargo freight rail service north of Cesar Chavez along Illinois Street (Date to be determined)

14. PUBLIC COMMENT

Public comment is permitted on any matter within Port jurisdiction and is not limited to agenda items. Public comment on non-agenda items may be raised during New Business/Public Comment. A member of the public has up to three minutes to make pertinent public comments before action is taken on any agenda item and during the new business/public comment period. It is strongly recommended that public comments be submitted in writing so they can be distributed to the Commissioners for their review. Please fill out a speaker card and hand it to the Commission Secretary. If you have any question regarding the agenda, please contact the Commission Secretary at 274-0406.

15. COMMUNICATIONS

Communications to the Port Commission from August 7, 2009 to September 3, 2009:

- From Freebairn-Smith & Crane, announcement that the Sustainable San Mateo Country Program has awarded its Annual Best Green Building Award 2009 to the Skillman Residence designed by Rod Freebairn-Smith and Peter Skillman
- From the Potrero Boosters Neighborhood Association, copy of The Potrero Community Voice
- From Port staff, copy of the ***Organized Labor*** article dated August 2009 entitled, "The Union Makes Us Strong: SF General Strike Anniversary"
- From Port staff, copy of the ***Organized Labor*** article dated August 2009 entitled, "Draft EIR for New Exploratorium approved by Planning Commission"
- From Port staff, copy of the ***Organized Labor*** article dated August 2009 entitled, "Engineering Work to Begin on Year-Round Cruise Terminal"

16. ADJOURNMENT

SEPTEMBER/OCTOBER 2009

CALENDAR OF UPCOMING PORT MEETINGS – OPEN TO THE PUBLIC

DATE	TIME	GROUP	LOCATION
Sept. 22	2:00 p.m.	Closed Session/Port Commission	Port Commission Room
	3:15 p.m.	Open Session	@ Ferry Building
Oct. 13	2:00 p.m.	Closed Session/Port Commission	Port Commission Room
	3:15 p.m.	Open Session	@ Ferry Building
Oct. 27	2:00 p.m.	Closed Session/Port Commission	Port Commission Room
	3:15 p.m.	Open Session	@ Ferry Building

NOTES:

The San Francisco Port Commission meets regularly on the second and fourth Tuesday of the month at 3:15 p.m., unless otherwise noticed. The Commission Agenda and staff reports are posted on the Port's Website @ www.sfport.com. Contact Amy Quesada at 274-0406.

The Fisherman's Wharf Waterfront Advisory Group (FWWAG) meets regularly on a bi-monthly basis, on the third Tuesday of the month. The regular meeting time and place is 9:00 a.m. at Scoma's Restaurant, Pier 47 at Fisherman's Wharf. Contact Michael Nerney @ 274-0416 or michael.nerney@sfport.com

The Maritime Commerce Advisory Committee (MCAC) meets on a quarterly basis, on the third Thursday of the month, from 11:30 a.m. to 1:00 p.m. @ Pier 1. Contact Jim Maloney @ 274-0519 or jim.maloney@sfport.com

The Mission Bay Citizens Advisory Committee meets regularly on the second Thursday of the month, from 5:30 to 7:30 p.m. at the Mission Bay Visitor Center (255 Channel Street). Contact Catherine Reilly, Assistant Project Manager, Redevelopment Agency, @ 749-2516 or Catherine Reilly/REDEV/SFGOV@SFGOV

The Northeast Waterfront Advisory Group (NEWAG) meets regularly on a bi-monthly basis on the first Wednesday of the month from 5:00 p.m. to 7:00 p.m. in the Bayside Conference Room @ Pier 1. Contact Jonathan Stern @ 274-0545 or jonathan.stern@sfport.com

The Central Waterfront Advisory Group (CWAG) meets monthly on an as-needed basis, generally on the third Wednesday of the month from 5 to 7 p.m. in the Bayside Conference Room at Pier 1. Contact Mark Paez @ 705-8674 or mark.paez@sfport.com

The Rincon Point-South Beach Citizens Advisory Committee meets on a quarterly basis, from 5:00-7:00 p.m. at the South Beach Yacht Club (Pier 40 on The Embarcadero). Contact Catherine Reilly, Assistant Project Manager, Redevelopment Agency, @ 749-2516 or Catherine.Reilly/REDEV/SFGOV@SFGOV

The Southern Waterfront Advisory Committee (SWAC) meets every last Wednesday of the month from 6:15 to 8:15 p.m. Location to be determined. Contact David Beaupre @ 274-0539 or david.beaupre@sfport.com

The Waterfront Design Advisory Committee (WDAC) meets jointly with the Design Review Board of the Bay Conservation and Development Commission on the first Monday of the month at BCDC, 50 California Street, Rm. 2600, at 6:30 p.m. The Committee meets as needed on the fourth Monday of the month at 6:30 p.m. in the Bayside Conf. Rm. @ Pier 1. Contact Dan Hodapp @ 274-0625 or dan.hodapp@sfport.com

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FERRY BUILDING:

The Port Commission Hearing Room is located on the second floor of the Ferry Building. The main public entrance is from the west (Embarcadero) side and is served by a bank of elevators adjacent to the historic staircase. Accessible public restrooms are on the first floor at the northeast end of the building as well as on the second floor across the lobby from the Port Commission Hearing Room. The main path of travel to the Port Commission Hearing Room is equipped with remote infrared signage (Talking Signs). The Port Commission Hearing Room is wheelchair accessible. Accessible seating for persons with disabilities (including those using wheelchairs) is available. The closest accessible BART and MUNI Metro station is Embarcadero located at Market & Spear Streets. Accessible MUNI lines serving the Ferry Building area are the F-Line, 9, 31, 32 and 71. For more information about MUNI accessible services, call (415) 923-6142. The nearest accessible parking is provided in the following off-street pay lots:

A) 3 spaces in the surface lot on the west side of the Embarcadero at Washington St.
B) Hourly and valet parking in the Pier 3 lot. This lot is accessed through the Pier 3 bulkhead building entrance on the east side of the Embarcadero. This lot is located on the pier deck; adjacent to the ferry boat Santa Rosa.

Additional covered accessible off-street pay parking is available in the Golden Gateway Garage, which is bounded by Washington, Clay, Drumm and Battery Streets. Entrance is on Clay St. between Battery and Front Streets. There is no high-top van parking. Metered street parking is available on the Embarcadero, Washington, Folsom & Drumm Streets.

PIER 1:

The Port's fully accessible offices are in the west end of Pier 1. There are two public entrances; the main entrance on the west (Embarcadero), and the Port History walk entrance on the south apron. Each of these entrances is provided with an automatically operated door. Both entrances lead to the Bayside conference rooms. Accessible public restrooms, drinking fountains, payphone and TTY are on the first floor near the main entrance. The public spaces of the Port's offices are equipped with remote infrared signage (Talking Signs) identifying all primary entrances, paths of travel, meeting rooms and amenities. Accessible seating areas and assistive listening devices will be available in the Bayside Conference rooms.

Accessible meeting information policy:

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals.

A sign language interpreter and alternative format copies of meeting agendas and other materials can be provided upon request made at least 72 hours in advance of any scheduled meeting. Contact Wendy Proctor, Port's ADA Coordinator, at 274-0592, the Port's TTY number is (415) 274-0587.

Know Your Rights Under the Sunshine Ordinance:

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact Frank Darby by mail: Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at (415) 554-7724; by fax at (415) 554-7854 or by email at sotf@sfgov.org. Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, at http://www.sfgov.org/sunshine.

NOTICES

Prohibition of Ringing of Sound Producing Devices:

The ringing of and use of cell phones, pagers, and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic device.

Lobbyist Registration and Reporting Requirements:

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Government Conduct Code Sections §2.100 – 2.160) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness, Suite 3900, San Francisco, CA 94102, phone (415) 581-2300 or fax (415) 581-2317; web site: www.sfgov.org/ethics.

PORT OF SAN FRANCISCO

MEMORANDUM

September 1, 2009

TO: MEMBERS, PORT COMMISSION
Hon. Rodney Fong, President
Hon. Stephanie Shakofsky, Vice President
Hon. Michael Hardeman
Hon. Ann Lazarus

FROM: Monique Moyer
Executive Director

SUBJECT: Request approval of No Fee License to Use Property No. 14731, approximately 665 square feet of the Pier 9 Marginal Wharf to be used solely for public access and for the installation of certain improvements, between the Port of San Francisco and the San Francisco Bay Area Water Emergency Transit Authority.

DIRECTOR'S RECOMMENDATION: Approve Attached Resolution

BACKGROUND

The San Francisco Bay Area Water Emergency Transit Authority ("WETA") is an agency that is authorized by the State of California to operate a comprehensive San Francisco Bay Area public water transit system.

On October 27, 2006, the Port of San Francisco and WETA entered Lease No. L-14280, for approximately 5,562 square feet of office space, 6,007 square feet of non-exclusive apron space, and 22,162 square feet of exclusive lay-berth area at Pier 9. The lease commenced on December 1, 2006 and expires on November 30, 2011. WETA currently pays approximately $22,000 in monthly rent to the Port of San Francisco. WETA is a tenant in good standing.

WETA now intends to build berthing facilities to accommodate lay-berthing of vessels on the north side of Pier 9 within its lay-berth area. As a condition of approval, the San Francisco Bay Conservation and Development Commission ("BCDC") requires WETA to provide 665 square feet of improved public access space at the Pier 9 Marginal Wharf.

THIS PRINT COVERS CALENDAR ITEM NO. 8A

In order to facilitate the BCDC (Permit No. MO8-25) requirements, the Port and WETA have drafted License No. 14731, with a term coterminous with its existing lease. The license provides for approximately 665 square feet of the Pier 9 Marginal Wharf to be used solely for public access and for the installation of certain improvements. The improvements include two benches, one trash container, bollards and a new gate at the Pier 9 north apron. WETA will maintain these improvements and indemnify the Port against any and all loss or liability. See attached location map.

WETA has requested and Port staff agrees that the monthly rental fee and security deposit should be waived based on the following criteria: (1) there are no other uses for the space during the term of the license that would generate rent to the Port; (2) no other uses would be displaced; and (3) WETA will not use the space for either commercial or exclusive use. The Port will not be expending any resources or revenues to support this use, and there is direct benefit to the Port in that the use will enliven the waterfront by attracting people to the waterfront and it will provide public access for the waterfront. All other terms and conditions of the license comply with the Port Commission's boilerplate terms.

RECOMMENDATIONS

Port staff recommends that the San Francisco Port Commission approve the no fee License to Use Property No. 14731 between the Port of San Francisco and WETA for approximately 665 square feet of public access space at the Pier 9 Marginal Wharf. Port staff further recommends that the Port Commission approve a fee waiver for the monthly rent and security deposit.

Prepared by: Jeffrey A. Bauer
Senior Commercial Leasing Manager

For: Peter Dailey
Deputy Director of Maritime

PORT COMMISSION
CITY & COUNTY OF SAN FRANCISCO
RESOLUTION NO. 09-50

WHEREAS, Charter Section 3.581 of the Charter of the City and County of San Francisco empowers the Port Commission with the power and authority and duty to use, conduct, operate, maintain, manage, regulate and control the Port area(s) of the City and County of San Francisco; and

WHEREAS, the San Francisco Bay Area Water Emergency Transit Authority ("WETA") is an agency that is authorized by the State of California to operate a comprehensive San Francisco Bay Area public water transit system; and

WHEREAS, WETA has been a Port of San Francisco office tenant in good standing at Pier 9 since 2006 and now intends to construct berthing improvements for lay-berthing of vessels on the north side of Pier 9 within its premises; and

WHEREAS, as a condition for approval, the San Francisco Bay Conservation and Development Commission ("BCDC") Permit No. MO8-25 requires WETA to provide public access and construct certain improvements at the Pier 9 Marginal Wharf; and

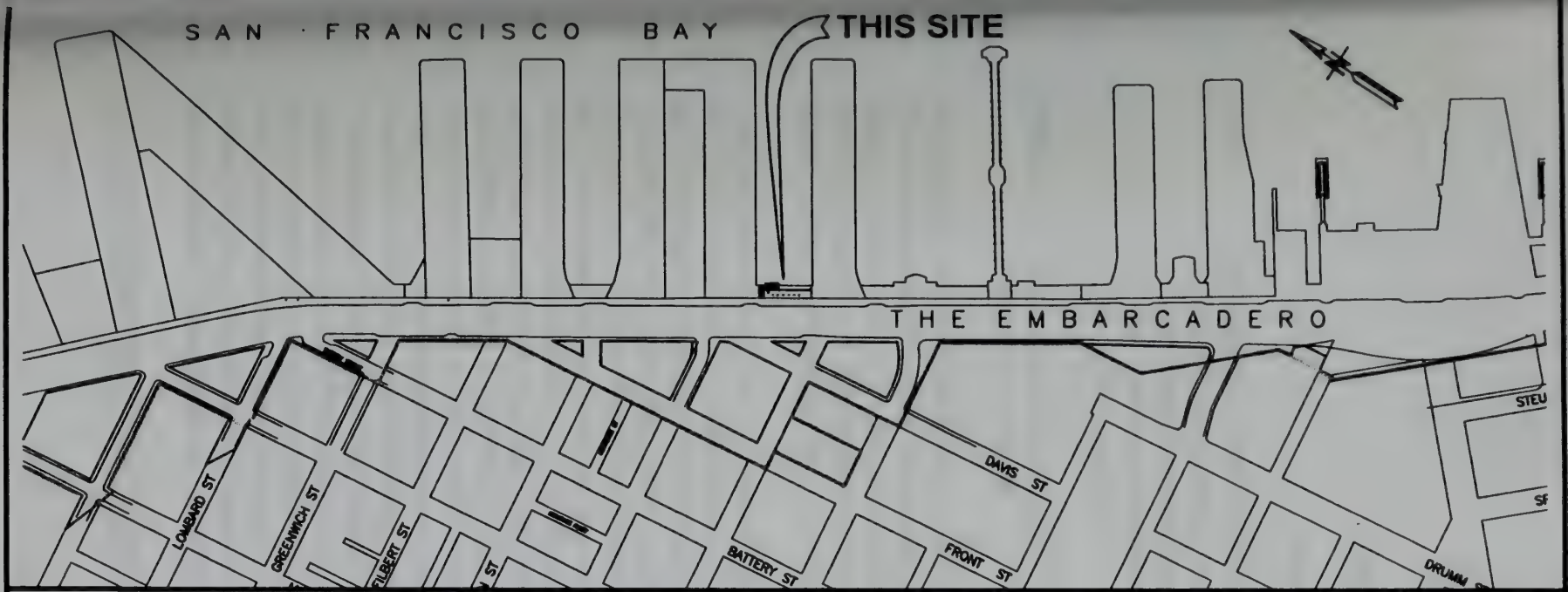
WHEREAS, the Port and WETA have drafted a no fee license No. 14731 for approximately 665 square feet of Pier 9 Marginal Wharf to provide public access and construct certain improvements to comply with conditions of the BCDC Permit MO8-25; and

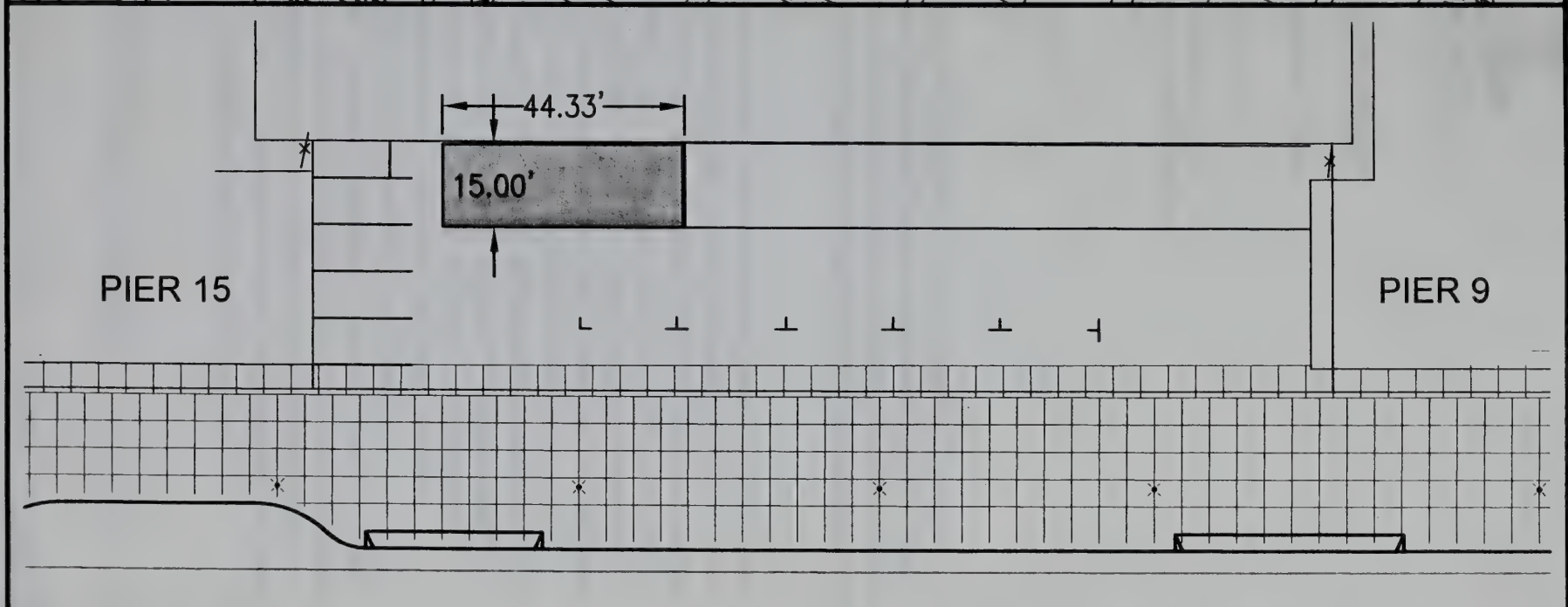
WHEREAS, Port staff agrees that the license should be at no fee because there are no other uses for the space during the term of the license that would generate rent to the Port, no other uses would be displaced and WETA will not use the space for either commercial or exclusive use. The Port will not be expending any resources or revenues to support this use, and there is direct benefit to the Port in that the use will enliven the waterfront by attracting people to the waterfront and it will provide public access for the waterfront. All other terms of the license comply with the Port Commission's boilerplate terms; and now, therefore, be it

RESOLVED, that the Port Commission hereby approves the terms and conditions set forth in Agenda Item 8A for the September 8, 2009 Port Commission meeting and authorizes the Executive Director to execute the no fee License to Use Property with the San Francisco Bay Area Water Emergency Transit Authority License No. 14731 in such final form as reviewed by the City Attorney.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of September 8, 2009.

_____
Secretary





LICENSE NO.	SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING	**PIER 9-15** **MARGINAL WHARF** PUBLIC ACCESS AREA	DRAWN BY: ECC, AMN CHECKED BY: J. BAUER PLACE CODE NO. 1095-00	DATE: AUG 19, 2009 SCALE: AS SHOWN SHEET NO. 1 OF 1 SHEETS

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PORT OF SAN FRANCISCO

MEMORANDUM

September 3, 2009

TO: MEMBERS, PORT COMMISSION
Hon. Rodney Fong, President
Hon. Stephanie Shakofsky, Vice President
Hon. Michael Hardeman
Hon. Ann Lazarus

FROM: Monique Moyer
Executive Director

SUBJECT: Request Adoption of the Required California Environmental Quality Act Findings and the Mitigation Monitoring and Reporting Program in connection with the lease of Piers 15 and 17 and the historic rehabilitation and redevelopment of Pier 15 by the Exploratorium, a California not-for-profit corporation (located on the Embarcadero at Green Street). (Resolution No. 09-46)

Request Approval of the (1) Lease Disposition and Development Agreement, (2) Lease No. L-14711 for a term of 66 years, (3) Parking Agreement at Seawall Lot 321 for a term up to 16 years (located on the Embarcadero between Green, Union and Front Streets), (4) Curb Indent License No. 14714 at Pier 15 for a term up to 66 years, (5) Curb Indent License No. 14715 at Pier 17 for a term up to 66 years, (6) Curb Space License No. 14716 at Green Street for a term up to 66 years, all with the Exploratorium, a California not-for-profit Corporation, (7) Tripartite Agreement with Baydelta Maritime, Inc., a California corporation, and the Exploratorium for relocation of Baydelta Maritime, Inc.'s operations from Pier 15 to Pier 17, (8) Lease No. L-14605 for a term of 5 years with three 5-year options with Baydelta Maritime, Inc. for space at Pier 17, (9) Second Amendment to the Memorandum of Understanding, No. M-14396, with the San Francisco Municipal Transportation Agency, (10) Schematic Drawings, (11) Amendments to the *Waterfront Land Use Plan* and *Design* and *Access Element*; and Request Authorization For Executive Director to File Application with the San Francisco Bay Conservation and Development Commission for a Major Permit, all in connection with the lease of Pier 15 and a portion of Pier 17 (located on the Embarcadero at Green Street) and the historic rehabilitation and redevelopment of Pier 15 by the Exploratorium. (Resolution No. 09-47)

Director's Recommendation: Approve the Attached Resolutions

This Print Covers Calendar Item Nos. 9A and 9B

SAN FRANCISCO
FAX 415 274 0528 WEB sfport.com ADDRESS San Francisco, CA 94111

This Staff Report covers both of the above items, which will be presented together at the Port Commission hearing.

This Staff Report is organized as follows:

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ATTACHMENTS

Attachment 1: Site Plan for Pier 15 and Pier 17
Attachment 2: Scope of Development
Attachment 3: Schematic Drawings
Attachment 4: Recommendations of the WDAC, March 9, 2009 and July 6, 2009
Attachment 5: Schedule of Performance
Attachment 6: Development Budget
Attachment 7: Letter from Mayor Gavin Newsom's Office regarding Embarcadero Improvement Work
Attachment 8: Lease Premises Site Plan
Attachment 9: New Baydelta Lease Premises Site Plan
Attachment 10: Parking Agreement Site Plan

Attachment 11: Pier 15 Curb Indent Site Plan
Attachment 12: Pier 17 Curb Indent Site Plan
Attachment 13: Curb Space-Green Street Site Plan
Attachment 14: Mitigation Measures and Mitigation Monitoring and Reporting Program

I. SUMMARY

A. Introduction

The Port Commission is requested to **(1)** adopt findings under the California Environmental Quality Act ("CEQA") and to adopt the mitigation and improvement measures and the Mitigation Monitoring and Reporting Program in connection with the lease of Pier 15 and a portion of Pier 17 and the historic rehabilitation and redevelopment of Pier 15 by the Exploratorium, a California not-for-profit corporation ("Exploratorium"), **(2)** approve the transaction documents and Schematic Drawings, **(3)** approve Amendments to the Port's *Waterfront Land Use Plan* and *Design and Access Element*, and **(4)** authorize the Executive Director to file an application with the San Francisco Bay Conservation and Development Commission ("BCDC") for a Major Permit.

B. Background on Project Status

The Exploratorium is an internationally-recognized museum of science, art and human perception that provides access to education about science, nature, art, human perception and technology to over 500,000 visitors annually. It was founded in 1969 and is currently located at the Palace of Fine Arts in San Francisco. Its mission is to create a culture of learning through innovative environments, programs and tools that help people nurture their curiosity about the world around them. Programs include a national center for teacher development, a web site of teaching resources and a global network of partner museums. In addition, the Exploratorium designs exhibits for science centers around the world, and millions of people see those exhibits every year.

After several years of searching for a new home to accommodate its expanding needs, followed by extensive negotiations with Port staff in 2005, the Exploratorium proposed to lease Pier 15, the connector building and valley between Pier 15 and Pier 17, under a long-term lease and to develop Pier 15 for the museum, create public access, a water lagoon and outdoor ticketed exhibit area in the valley, remove the connector building and replace it with a new building, with the option to expand into Pier 17 in the 17th year of the lease term ("Original Project"). On June 21, 2005 the Exploratorium obtained a resolution from the Board of Supervisors (Resolution No. 477-05) exempting a potential lease of Pier 15 from the competitive bidding policy set forth in the City's Administrative Code.

The Port then completed a review process on Piers 15 and 17 pursuant to the Port's *Waterfront Land Use Plan* ("*Waterfront Plan*") to determine whether these piers were no longer viable exclusively for maritime activities. To complete this review process Port Staff, through a maritime consultant, prepared the *Pier 15/17 Exclusive Maritime Use Study*. The Port Commission thereafter adopted the following findings: (1) that the sheds at Piers 15 and17 are no longer needed exclusively for maritime use, (2) that the east face berth at Piers 15 and17 is not surplus to the maritime needs of the Port and that any redevelopment of the facility must be compatible with the retention of the east

face berth for lay berthing, and (3) that any redevelopment of Piers 15 and17 must be compatible with and accommodate a tug and tow operation. The Port Commission further directed Staff (1) to consider non-maritime uses for Piers 15 and17, consistent with the *Waterfront Plan* and with the other findings, to develop, repair and lease Piers 15 and17, (2) to seek ways to improve waterside access at Piers 15 and17 for ferries, crew boats or water taxis, and (3) to conduct a comprehensive review of the market opportunity and land and water needs of maritime-industrial activities (Port Commission Resolution No. 06-03).

Thereafter, the Port and the Exploratorium entered into an Exclusive Negotiation Agreement ("ENA") for a term of three years commencing on March 1, 2006 (Port Commission Resolution No. 06-13 dated February 28, 2006), setting forth the terms and conditions of exclusive negotiations between the parties for the proposed development of a museum at Piers 15 and 17.

The Port and the Exploratorium then prepared a Fiscal Feasibility Report as required by the Fiscal Feasibility Ordinance (Chapter 29 of the City's Administrative Code), and on July 25, 2006 obtained from the Board of Supervisors: (1) a determination that the Original Project was fiscally responsible and feasible, (2) endorsement of the Term Sheet, and (3) authorization to undertake environmental review of the Original Project (Resolution No. 446-06).

The Exploratorium immediately commenced its due diligence investigations of the piers, filed its application for environmental review with the San Francisco Planning Department and filed an initial application for a Major Permit from BCDC. It presented the Project drawings to the *Waterfront Design Advisory Committee* ("WDAC") and BCDC's *Design Review Board* at several joint meetings. It engaged in discussions with the Office of Historic Preservation and the State Lands Commission staff, and made many presentations of the plans to various community groups, stakeholders and the Port's Northeast Waterfront Advisory Group.

In 2007, the Exploratorium approached Port staff with two major concerns: (1) the total development cost of the Original Project had escalated and was much greater than the Exploratorium had originally anticipated ($97 million increased to $175 million), of which a large portion was in the substructure work, and (2) the museum wanted more control over its destiny and ability to expand the museum into Pier 17 at any time. To address the first concern, the Exploratorium requested a bigger rent credit from the Port to pay for the increased substructure repair costs. To address the second concern, the Exploratorium requested to lease Pier 17 at the same time it leases Pier 15 rather than waiting to exercise an option in the 17th year of the lease term.

The parties reached agreement on terms addressing both of these concerns, and on August 12, 2008, pursuant to Port Commission Resolution No. 08-51, the parties amended the ENA and entered into an Amended and Restated Exclusive Negotiation Agreement ("Amended ENA") and an Amended and Restated Term Sheet for Piers 15 and 17 ("Amended Term Sheet"), which set forth revised terms for the development of Pier 15 and the valley and future expansion of the museum into Pier 17 (hereinafter

referred to simply as "the Project"). A Site Plan of the Project area is attached hereto as **Attachment 1**.

On December 9, 2008, pursuant to Resolution No. 521-08, the Board of Supervisors (1) reaffirmed the findings of the previous Board Resolution and found that the Project was fiscally responsible and feasible, (2) endorsed the Amended Term Sheet, and (3) exempted the potential lease of Pier 15 and a portion of Pier 17 from the City's competitive bidding policy.

On February 25, 2009, the parties entered into a First Amendment to the Amended ENA extending the term of the agreement to the earlier of the effective date of the Development Agreement or February 28, 2010. The parties have negotiated the Transaction Documents for the Project (described in further detail below) and are now seeking Port Commission approval of the transaction.

C. Condition of Piers 15 and 17

The Site consists of Pier 15, Pier 17, a connector building between the two piers, a paved parking area between the two piers ("the valley"), and the marginal wharves in front of Pier 15 and Pier 17. The Project Site is located on the Embarcadero at Green Street and is easily accessible by ferry, BART and MUNI.

Piers 15 and 17 are part of the San Francisco Embarcadero National Register Historic District ("Historic District"), which is on the National Register of Historic Places. Both piers are considered "contributing resources" to the Historic District, except for the valley, the non-historic connector building and the non-historic additions that were added to the Pier 15 and Pier 17 sheds in the 1950s, which are considered "non-contributing" resources to the Historic District.

The substructure of Pier 15 is among the most deteriorated of the Port's facilities. Many piles have been "red-tagged" or "yellow-tagged" by the Port's engineering division, limiting occupancy in these areas. Pier 15 is load-restricted and cannot support the weight of heavy vehicles, thereby reducing the amount of leasable area. The valley is used as a parking lot but only the perimeter areas can be used and only for automobiles, rendering the truck loading docks useless. Under the proposed Project, the Exploratorium would have the obligation to repair the Pier 15 substructure and superstructure, do seismic upgrades, and bring the facility up to code. The Project would preserve this historic pier while also providing a new expanded home for the museum.

Pier 17 is in better condition but eventually also will need significant repairs. If the Exploratorium decides to expand the museum into Pier 17 in the future, it will undertake a complete rehabilitation of Pier 17 at that time. In the interim, the Exploratorium plans to use portions of Pier 17 for museum-related uses and sublease the balance of Pier 17 to other users. Currently, approximately 72% of Pier 17 is leased to interim users. The Exploratorium would assume the existing leases at Pier 17 and would be responsible for repairs and maintenance of both Pier 15 and Pier 17 for the life of the Lease.

D. Development Concept for Exploratorium Project

The Scope of Development (**Attachment 2**) sets forth a description of the Project, which will include historic rehabilitation and seismic upgrade of Pier 15; construction of the museum with creation of nearly two acres of public access at the Site; removal of the connector building and existing asphalt deck in the valley and construction of a new "Observatory Building;" construction of new improvements inside Pier 17 for Baydelta Maritime, Inc. ("Baydelta"), a tug and tow operator that will be re-located from Pier 15 to Pier 17; rehabilitation of the Pier 17 north apron and dredging of the Pier 17-19 water basin to accommodate Baydelta's tugboats. These improvements are referred to in the Lease as "Phase I Improvements." The museum improvements will include exhibit galleries, exhibit fabrication areas, classrooms, a multipurpose room, cafés with outdoor seating, a museum store and ancillary offices. The new Observatory Building will house a café on the first floor and exhibits and events space on the second floor. The one-story building that connects the Observatory Building with the historic Pier 15 shed will have a rooftop terrace to accommodate outdoor events spilling out from the Observatory Building. The Exploratorium is required to rehabilitate the facilities in accordance with standards and guidelines established by the Secretary of the Interior for rehabilitation and preservation of historic buildings ("Secretary's Standards").

The design of the Project is shown in the Schematic Drawings, attached hereto as **Attachment 3**. The Project design was reviewed several times by the WDAC, whose members include architects and planners appointed by the Port, the Planning Department and the Mayor. These reviews were held jointly with BCDC's Design Review Board. The WDAC recommended approval of the Project design at its meetings held on March 9, 2009 and July 6, 2009 (see the Recommendations of the WDAC attached hereto as **Attachment 4**).

If the Exploratorium decides to expand the museum into Pier 17 in the future, it will build the following improvements (the "Phase II Improvements"): repair the Pier 17 substructure, including the marginal wharf, loading dock and east apron, seismically upgrade the substructure and buildings, construct improvements and utilities inside the shed to accommodate the museum and new uses such as a café and public lobby, widen the Pier 17 loading dock for increased public access, install landscaping, furnishings, paving, seating and lighting, and install solar panels on the roof. To ensure that the Phase II improvements comply with the Secretary's Standards, the Exploratorium must follow the procedures and performance criteria set forth in mitigation measure M-CP-1 of the Mitigation Monitoring and Reporting Program (**Attachment 14**).

E. Accomplishments to Date

The following has been accomplished to date during the Exclusive Negotiation Period:

- The Board of Supervisors has determined that the Project is fiscally responsible and feasible and endorsed the terms of the transaction.
- The parties have negotiated all of the Transaction Documents for the Project and licenses for the construction period.
- The Exploratorium has completed its due diligence investigations of the Site and finalized the design and scope of the Project, which is reflected in the Schematic Drawings and Scope of Development.

- The Exploratorium has raised a significant amount of funds to cover the development cost of the Project.
- The San Francisco Planning Commission has certified the Final Environmental Impact Report and the appeal period has expired.
- The WDAC has given its favorable support of the Schematic Drawings, including the re-designed Observatory Building.
- The California Office of Historic Preservation and the National Park Service have approved the Historic Preservation Certification-Evaluation of Significance Applications (Part 1 and Part 2) for Pier 15 and determined that the proposed improvements comply with the Secretary's Standards.
- The San Francisco Planning Department has issued an off-site Parking Exemption letter.
- The Port and the Exploratorium have had several productive meetings with the staff of the State Lands Commission and expect to receive in the near future a letter determining that the Project as proposed is consistent with the public trust.
- The Exploratorium has filed an application to amend the BCDC *San Francisco Waterfront Special Area Plan ("Special Area Plan")*, and there has been one BCDC public hearing and several meetings with BCDC staff.
- Port and the Exploratorium have presented the Project to numerous community groups and stakeholders.

II. REVIEW OF PROJECT UNDER CALIFORNIA ENVIRONMENTAL QUALITY ACT

The Planning Commission certified the Project's Final Environmental Impact Report ("Final EIR") on July 9, 2009 and found that the Project will not have a significant impact on the environment because the mitigation measures will reduce all identified impacts to a less-than-significant level. The Final EIR identifies certain mitigation and improvement measures to avoid potential significant negative effects. The mitigation and improvement measures and the Mitigation Monitoring and Reporting Program are attached to this Staff Report as **Attachment 14**.

III. TRANSACTION DOCUMENTS

The agreements negotiated between Port Staff and the Exploratorium (collectively, the "Transaction Documents") are the following:

A. Lease Disposition and Development Agreement ("Development Agreement")
B. Lease No. L-14711 between the Port and the Exploratorium ("Lease")
C. Tripartite Agreement among Port, Baydelta and the Exploratorium
D. Lease No. L-14605 with Baydelta for space at Pier 17 ("New Baydelta Lease")
E. Second Amendment to the Memorandum of Understanding, No. M-14396, with the San Francisco Municipal Transportation Agency
F. Parking Agreement at Seawall Lot 321
G. License for Curb Indent at Pier 15
H. License for Curb Indent at Pier 17
I. License for Curb Space at Green Street

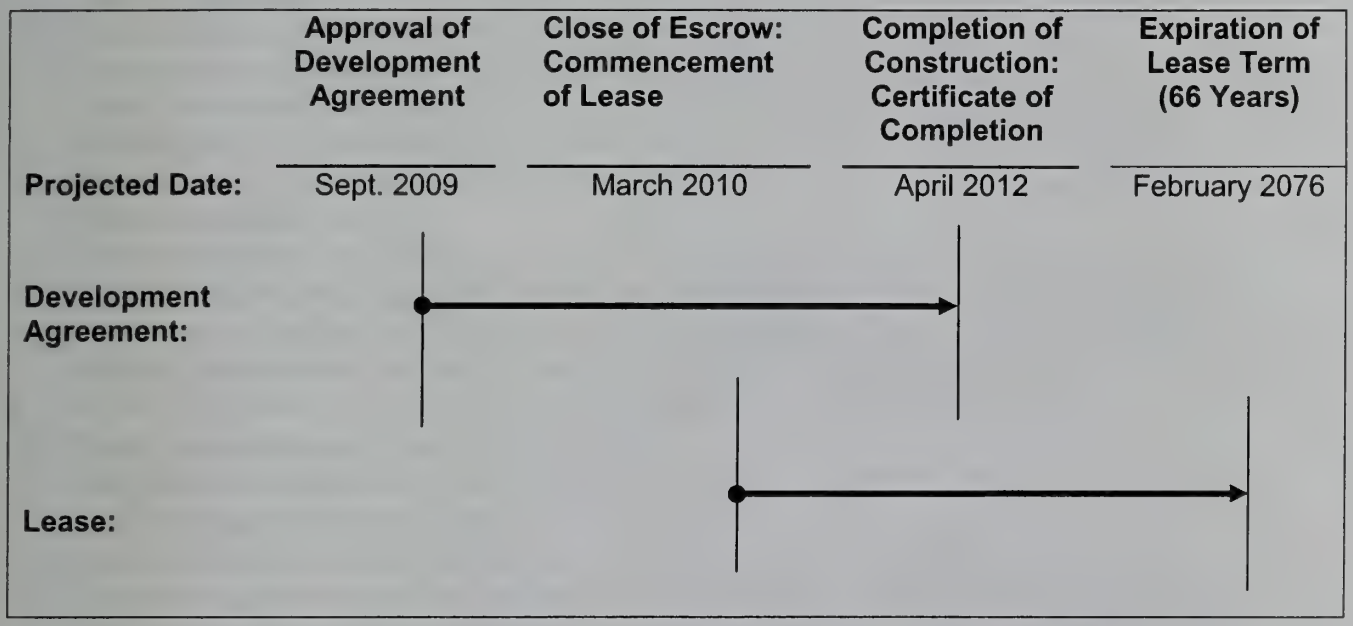
In addition to the Transaction Documents, other documents have been prepared or will be prepared prior to close of escrow, which is anticipated to occur at the end of March 2010.

Legal Effect of the Documents

The Development Agreement will be signed by the Port following its approval by the Port Commission and following approval of the Lease, Parking Agreement and three Curb Licenses by the Board of Supervisors. The Development Agreement will go into effect immediately upon execution by the Port and the Exploratorium, but the Lease will not go into effect until certain conditions are met. These conditions are discussed below under Section III.A., Development Agreement. Once these conditions have been satisfied, the Lease will be executed and delivered to both parties through an escrow.

The Lease will become effective immediately upon delivery to the Exploratorium and expire 66 years after the commencement date. The Development Agreement will expire upon completion of construction and recording of a Certificate of Completion. During the construction period, both the Lease and the Development Agreement will be in effect.

The anticipated schedule for this transaction is illustrated in the following diagram:



While only the Development Agreement will go into effect now, Port Commission approval is being sought at this time for the entire transaction as described in the Transaction Documents. If the conditions stated in the Development Agreement are satisfied, the Executive Director will be authorized to execute and deliver these documents through escrow, including the Lease.

A. Development Agreement

The purpose of the Development Agreement is to set forth the requirements for the rehabilitation and re-development of Pier 15, the valley and the connector building, and to set forth the conditions for delivery of the Lease to the Exploratorium. The Port will deliver the Lease to the Exploratorium if the conditions are satisfied. The Development Agreement provides the Exploratorium with the certainty it needs to invest further in the design, construction documents and approval process for the Project and to finalize the Project financing. The Development Agreement protects the Port because the Port is

not obligated to deliver the Lease unless and until the conditions in the Development Agreement are satisfied. After the Exploratorium completes construction of the improvements described in the Scope of Development, the Port will issue a Certificate of Completion, which upon recordation will terminate the Development Agreement. Port Commission approval of the Development Agreement is required because it concerns a major development on Port property and sets forth requirements for delivering the Lease.

Development of the Site

Under the Development Agreement, the Exploratorium (which will be referred to in this section as "the Developer") will have the following obligations for development of the Site:

- Accept the Site in its "as is" condition, perform due diligence investigations, remediate hazardous materials, comply with laws and regulations and obtain all regulatory approvals necessary to undertake the planned development;
- Improve the Site and construct the improvements, at Developer's sole cost, in conformance with the Scope of Development and Schematic Drawings and within the timeframes set forth in the Schedule of Performance (**Attachment 5**). These documents are attached as Exhibits to the Development Agreement and also to this Staff Report and are described in more detail below. The improvements must comply with the Secretary's Standards and must achieve no less than LEED (Leadership in Energy and Environmental Design) silver certification from the U.S. Green Building Council;
- Comply with the mitigation and improvement measures set forth in the Mitigation Monitoring and Reporting Program, the Environmental Protection Plan (described below under "Lease") and the Mobilization and Staging Plan (which documents where the contractor will stage materials, trucks, construction trailers and equipment at the Premises during construction and includes vehicle circulation plans;
- Carry insurance and indemnify the Port;
- Reimburse the Port for costs of staff time and legal fees incurred during the term of the Development Agreement;
- Furnish Port with "As-Built Documents" after completion of the improvements;
- The Port may continue to lease space in Pier 15 and Pier 17 until close of escrow so long as any lease of Pier 15 terminates prior to close of escrow and any lease of Pier 17 does not exceed 5 years;
- Prior to close of escrow, if the Site suffers damage from fire or other casualty of less than $1 million, the Developer is required to consummate the close of escrow; if the damage exceeds $1 million, either Party may terminate the Development Agreement;
- If the Development Agreement terminates prior to close of escrow (for any reason other than a title defect or a termination caused by a Port event of default), the Developer will be required to pay a termination fee of $100,000 to the Port;
- The default provisions and legal remedies of the parties are set forth in the Development Agreement, which for the Port include termination, payment of the termination fee, receipt of project materials, specific performance and damages, and for the Developer include termination, specific performance, and receipt of damages

equal to the insurance proceeds the Port would have received if there is a casualty prior to close of escrow and Port fails to maintain insurance.

Conditions to Close of Escrow

The following conditions, among others, must be satisfied in order for escrow to close, at which time the Lease and Site will be delivered to the Developer:

- The Port Commission shall have approved the Transaction Documents, and the Board of Supervisors shall have approved the Lease, the Parking Agreement and the three Curb Licenses;
- The Port shall have approved the development budget and evidence of adequate financing for the Project, including evidence of the Developer's ability to meet debt service obligation(s) and evidence of a commitment letter from a lender, if applicable. The Port also must have approved the Developer's statement of sources and uses of funds, which must be sufficient to demonstrate that Developer has or will have funds equal to or exceeding the total development cost of the improvements and of the Baydelta improvements and that such funds have been spent for uses described in the development budget or are committed and available for that purpose;
- The Port shall have approved the Developer's guaranteed maximum price contract for construction of the improvements and the Baydelta improvements, and the Port shall have approved the contract for the dredging work in the Pier 17-19 water basin;
- The Port shall have approved the Schematic Drawings, materials and color samples and Final Construction Documents and is ready to issue a building permit;
- Developer shall have submitted evidence satisfactory to Port that the improvements are consistent with the Secretary's Standards, and with the Port's Historic Preservation Review Guidelines for Pier and Bulkhead Wharf Substructures ("Port's Guidelines");
- The Developer shall have obtained all regulatory approvals required to commence construction of the improvements and the Baydelta improvements and to perform the Dredging Work. These approvals include a Major Permit from BCDC, amendments to the *Special Area Plan*, a letter of determination from the State Lands Commission ("State Lands") that the Project is consistent with the public trust, and permits from the Regional Water Quality Control Board, the Army Corps of Engineers and the Dredged Materials Management Office;
- The Developer shall have deposited exaction fees that are required to be paid prior to close of escrow;
- The Developer shall have provided a $5 million fund in a segregated bank account (and granted a first priority security interest in this fund to Port) to secure the performance of sufficient improvements at the Site to leave the property in a leaseable condition if the Developer were to terminate the Development Agreement before completion of the improvements. This provision is in lieu of the requirement for the Developer to provide a performance bond.

Exhibits to the Development Agreement

Key Exhibits are discussed below:

Scope of Development
The Scope of Development sets forth the improvements that are to be constructed on the Site by the Developer.

Schedule of Performance
The Schedule of Performance sets forth the deadlines by which the parties are required to submit or approve documents prior to close of escrow and deadlines by which the parties are required to act during the construction phase of the Project. All deadlines are subject to force majeure.

Schematic Drawings
The Schematic Drawings for the Project were reviewed and recommended by the WDC on March 9, 2009. The Developer presented additional Schematic Drawings for the re-designed Observatory Building (located at the east end of Pier 15) which were reviewed and recommended by the WDAC on July 6, 2009. Schematic Drawings consisting of site plans and elevations are attached to the Development Agreement and also to this Staff Report. Additional drawings of pavement treatments and exterior furnishings (such as light poles, railings, trash cans, benches, etc.) also were reviewed and recommended for approval by the WDAC but are too numerous to attach to the Development Agreement or to this Staff Report. They are contained in booklets and Power Point presentations that were submitted and shown to the WDAC at various meetings. Copies of such drawings and presentations are available upon request to the Port Commission Secretary at 415-274-0400. The Port Commission is being requested to approve the Schematic Drawings attached hereto and the drawings recommended for approval by the WDAC through July 6, 2009.

Development Budget
The Development Budget for the Project, showing a total development cost of $175 million, is attached hereto as **Attachment 6**.

Embarcadero Improvement Work. At the September 8, 2008 WDAC meeting, the WDAC recommended that certain improvements be constructed in the sidewalk and Embarcadero roadway in the vicinity of the Project Site to improve pedestrian circulation and for safety and aesthetic reasons. These improvements (the "Embarcadero Improvement Work") include:

(1) flattening the raised portions of the public art ribbon in front of Pier 15 and Pier 17 to reduce interference with pedestrian traffic flow;
(2) straightening the crosswalk at the intersection of Green Street and the Embarcadero to shorten the walk across the Embarcadero from the parking lot at Seawall Lot 321 to the Site. These improvements involve extension of the streetcar platform, new curbs, gutters, paving, re-striping, signage, relocation of street poles, relocation of vehicular and pedestrian traffic signals);
(3) constructing sidewalk bulb-outs at the northwest and southwest corners of the Green Street/Embarcadero intersection to create larger pedestrian refuge areas; and

(4) removing the existing southbound left turn lane from the Embarcadero into Piers 15 and 17 to prevent cars from driving into the Project Site. This work will involve modifications to traffic signals.

The current estimate by the City's Department of Public Works staff estimates the cost of the Embarcadero Improvement Work at approximately $1.2 million. The City, through Mayor Gavin Newsom's Office, has agreed to pay for the design and construction of the Embarcadero Improvement Work, per the attached letter, **Attachment 7**.

B. LEASE

The Lease between the Port and the Exploratorium will be delivered through an escrow when the conditions of the Development Agreement are satisfied. Port Commission approval of the Lease is required because it concerns a major development on Port property and has a term of 66 years. The Exploratorium will be referred to in this section as "Tenant."

The following business terms have been negotiated between Port Staff and Tenant:

Term: 66 years.

Commencement Date: The Lease commences when the Project closes escrow.

Termination Date: 66 years from the Commencement Date.

Premises: Pier 15 and Pier 17 (except a portion of the Pier 17 shed and the Pier 17 north apron, which are reserved for Baydelta's new premises); the marginal wharves at Pier 15 and Pier 17; and two parcels of water adjacent to the Pier 15 south apron for construction of apron deck extensions, all as shown on the Lease Premises Site Plan attached hereto as **Attachment 8**. Tenant also has the right to berth vessels in the water adjacent to the Pier 15 south apron. Initially, the Premises will exclude the area currently occupied and leased by Baydelta at Pier 15. After Baydelta is relocated to its new space at Pier 17, Baydelta's Pier 15 space will be added to Tenant's Premises.

Permitted Use Agreements: The Port will assign the Pier 17 leases to Tenant, and Tenant will assume the Port's rights and obligations under those agreements.

Option to Expand: Tenant may exercise a right to expand the Premises to include the Baydelta premises at Pier 17 (excluding the water) if (i) the Port is unable to find another water-dependent maritime user for the space within 5 years after Baydelta's (or another maritime user's) lease expires or terminates, and (ii) the Port conducts an Exclusive Maritime Use Study and the Study concludes that the Baydelta premises at Pier 17 are not needed exclusively for maritime use and the Port Commission concurs by resolution. Tenant will pay market rates for the space, and the Port shall have the right to continue to berth vessels at the north apron.

Reduction of the Premises: If Tenant has not commenced the repair and seismic upgrade of the Pier 17 substructure and the Phase II improvements by the 17th year of

the Lease term, the Pier 17 shed and Pier 17 east apron will be removed from the Premises and returned to the Port.

Uses: *Required:* The Pier 15 premises must be used for operation of the Exploratorium museum; if the Phase II Improvements are constructed, then Pier 17 also must be used for operation of the Exploratorium museum. Tenant also is required to provide dedicated public access areas on the Premises as required by BCDC or State Lands. *Permitted:* Tenant may use the Premises for uses ancillary to the museum operations, such as classrooms, multipurpose theater, laboratories, exhibit fabrication, storage, administrative office space, etc. No more than 17,000 square feet of the Premises may be used for restaurants and no more than 6,000 square feet may be used for retail, including the museum store. Other permitted uses include maritime operations, rental for special events, installation of outdoor exhibits, vehicular loading and unloading, assembly of visitors in the Pier 17 marginal wharf area, and storage of equipment. Pier 17 may be used for general office, warehouse, and storage uses so long as the term of any Pier 17 sublease does not exceed five years.

Tenant's Right to Restricted Berthing Area: Tenant will have non-exclusive rights to berth vessels in the Restricted Berthing Area, shown on **Attachment 8**. Smaller vessels may dock in the Restricted Berthing Area without obtaining Port's prior consent. Port's prior consent will be necessary for larger vessels to dock. Additional rules and regulations regarding the operation of the Restricted Berthing Area will be drafted later by the parties. Excursion vessels[1] will not be allowed to dock in the Restricted Berthing Area without prior Port consent, which Port may grant or deny in its sole discretion. The Port must approve all material business terms of agreements relating to the operation of excursion vessels going to and/or from the Premises, and the term of any such agreement may not exceed one year.

Port's Reserved Rights: Throughout the term of the Lease, the Port will have the right, without charge (i) of vehicular access to vessels berthed at the east apron, (ii) to use the Pier 17 shed to route a hose to service vessels at the east apron until a permanent sewer hook-up is established, (iii) to use the east apron for berthing and provisioning of ships, (iv) to use and operate a water taxi service at the boat dock to be constructed in the Restricted Berthing Area, and (v) to access the roof to install a satellite dish(es) for the Port's or City's emergency communications systems.

Restrictions on Port's Right to Berth Vessels at the East Apron: The Port will have the sole right to berth vessels at the Piers 15/17 east apron but has agreed that it will minimize interference with Tenant's operations of the museum. The parties have negotiated certain restrictions on Port's berthing activities to enable museum operations and berthing to co-exist at the facility. The Port agrees not to dock large vessels (exceeding 250 linear feet) or Navy vessels (vessels that close off the apron to the

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[1] *"Excursion vessels" is defined as passenger vessels that are U.S. Coast Guard certified for intra-coastal passengers for hire, are not common carriers regulated by the State Public Utilities Commission, and are used for transporting passengers to and from the Pier 15 south apron on trips such as sightseeing tours, which may include dining services.*

public) more than 46 days per calendar year.[2] The Port will have the right every year to dock Navy ships for Fleet Week (not included in the 46 days). If the Port wants to dock a large vessel or Navy vessel after 46 days, it must first use best efforts to dock the large vessels elsewhere on Port property or the Navy vessels elsewhere in the Northern Waterfront or Piers 30/32. The Port will have unlimited rights to dock smaller vessels (250 linear feet or less) at the east apron berth but will use best efforts to dock those ships at the north end of the apron adjacent to Pier 17.

Tenant will have the right to request up to 8 blackout windows per year, each window consisting of 2 consecutive days, and one additional blackout day for Tenant's annual fundraising gala (total 17 days), and the Port agrees not to berth any vessels at the east apron during those blackout days.

The Port and Navy will have the right to close public access to the east apron and other limited areas of the Premises when Navy ships berth at the east apron. The parties will cooperate in implementing security measures, and the Port has agreed that the security measures will not require closure of any portion of the museum at any time but Tenant may, in its sole discretion, agree to a security measure that requires partial closure of the rooftop terrace or the outdoor ticketed area of the museum. The Lease provides for noticing, scheduling, security procedures, servicing of vessels, insurance and indemnity.

Water Taxi Dock: Tenant is required, at its sole cost, to design and construct a water taxi dock in the Restricted Berthing Area. The Port will own, manage, repair and maintain the dock and operate the water taxi service. The exact location, design and dimensions of the dock will be determined later by the parties. If construction of the dock is not commenced by the 4th anniversary date of the Lease and completed by the 5th anniversary date, Tenant must pay Port the actual cost to design, permit and construct the dock, plus an administrative fee equal to 10% of hard costs.[3]

Minimum Rent:
Pier 15: Initially $65,568 per month, increased to **$78,677** per month when the Baydelta Pier 15 space is added to the Premises, or **$944,126 per year** (subject to 50 years of rent credits—explained below). Rent is based on the following market rates (less 5% for assumed operating and utility expenses and less 5% for assumed vacancy expenses):
$.50 /sq ft /month for shed space

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[2] *The east apron is closed to the public for security and safety reasons when Navy ships dock.*

[3] *Subject to Port Commission approval at a future date, the Port will operate the water taxi service (either itself or through an operator), and the Port will coordinate with other water taxi docks to be built on Port property in the future. All water taxi operators will sign operating agreements directly with the Port, and the Port will set and collect the landing fees. A "water taxi" is defined as a water vessel less than 60 feet in length used for transporting passengers on point-to-point trips, which vessel is Coast-Guard certified for intra-coastal passengers for hire and has a maximum capacity for 49 people, and shall not be used as a dining vessel.*

$.20 /sq ft/month for open pier land in the valley
$.50 /sq ft /month for marginal wharf
$1.85/sq ft/month for office
(No charge for water or aprons)

Pier 17: **$65,282** per month, or **$783,384** per year, based on the following market rates (less 5% for assumed operating and utility expenses and less 5% for assumed vacancy expenses):
$.72/sq ft /month for shed space
$1.90/sq ft/month for internal offices
$2.47/sq ft/month for the outside office building
$.26/sq/ft/month for the south loading dock
(No charge for water or aprons)

Rent starts when the Lease commences.

Minimum Rent Adjustment:
Pier 15 Rent: Cost of Living Adjustment (COLA) (increase) every 5 years with 10% floor, 20% ceiling.
Pier 17 Rent: 3% fixed annual increases starting 1/1/2010 until the rent credit for Pier 17 substructure repair work takes effect, if applicable, and then the same COLA adjustment as for Pier 15; market rate adjustments on the 31st, 41st and 51st anniversary dates.

Rent Abatement: The Pier 17 minimum rent will be abated proportionately for vacant rentable space in the Pier 17 shed that is not subleased to third parties or used by Tenant, for a period of six months after the Commencement Date of the Lease or until all of the unused space is subleased or used by Tenant, whichever occurs first.

Excess Rent: Before expansion of the museum into Pier 17 (if applicable), for subleases at Pier 17 in existence when the Lease commences, all revenue in excess of the Pier 17 minimum rent that Tenant (Exploratorium) pays to the Port will be passed through to the Port. For subleases at Pier 17 executed after the Lease commences, all revenue in excess of the Pier 17 minimum rent that Tenant (Exploratorium) pays to the Port will be split equally between the parties (after deducting expenses). After expansion, sublease revenues will be part of the percentage rent calculation.

Percentage Rent:

Pier 15: From commencement of the Lease until the museum expands into Pier 17 (if applicable), Tenant will pay 6% of gross revenues from Tenant's on-site operations at the Pier 15 premises (i.e., ticket sales, merchandise, food and beverage sales, advertising, event rentals, docking fees, etc.) plus 15% of sublease rent that Tenant receives from subleases at Pier 15 (e.g., the café operator), offset by Pier 15 minimum rent.

Pier 17: From commencement of the Lease until the museum expands into Pier 17 (if applicable), Tenant will pay 6% of gross revenues from Tenant's on-site operations at Pier 17, offset by Pier 17 minimum rent.

Expansion: If Tenant expands the museum into Pier 17, then from that date until the expiration of the Lease, Tenant will pay 6% of gross revenues from Tenant's on-site

operations at both piers, plus 15% of Pier 15 sublease rent and 15% of Pier 17 sublease rent, offset by the minimum rent for both piers.

Percentage rent will be calculated and paid quarterly with an annual reconciliation at the end of each Tenant fiscal year. If it is determined that Tenant underpaid percentage rent for that year Tenant will pay the amount due to the Port; if there is an overpayment, the Port will apply the overpayment to future percentage rent that is due and unpaid.

Rent Credits:

Pier 15 Rent Credit: In consideration of performing substantial substructure repair work at Pier 15, the valley and the connector building, the Port will grant to Tenant 50 years of rent credit on Pier 15. The rent credit does not include any seismic work but does include Tenant's cost to remove fill that is required to be removed under the *Special Area Plan*. See Section IV., Project Analysis, for discussion of the basis for the rent credit.

Pier 17 Rent Credit: If Tenant decides to expand the museum into Pier 17 and therefore performs the Pier 17 substructure repair work (as defined in the Lease), the Port will grant to Tenant a rent credit for this work (not including seismic upgrades but including a portion of the cost to repair the north apron for Baydelta), and the parties will negotiate the amount of the rent credit at the time of the repair, based on plans and a budget to be presented to the Port before the repair work is performed. The amount of the Pier 17 rent credit will not be adjusted regardless of the actual cost and will not be applied earlier than the 11th anniversary date of the Lease term. The rent credit will be reduced by the projected net present value of investment funds that may be available to Tenant from historic preservation tax credits. If Tenant elects not to apply for historic preservation tax credits or withdraws an application for the same, the rent credit will be reduced by the projected net present value of investment funds that could have been available to Tenant. The rent credit will be applied against the Pier 17 minimum rent, and the outstanding balance will bear interest at the rate of 5.5% per annum, compounded annually. The Port may elect to prepay all or a portion of the balance of the Pier 17 rent credit.

Improvements & Subsequent Construction: Tenant is obligated to construct the Pier 15 improvements set forth in the Scope of Development and the Tripartite Agreement and has the right to construct additional improvements throughout the term of the Lease, including the Pier 17 Phase II Improvements. All improvements must comply with the Secretary's Standards.

Structural Repairs:

Pier 15: Tenant is required to repair the substructure and seismically upgrade Pier 15, including the shed, bulkhead building and connector building, the valley, the south apron, and most of the east apron, plus work required under the Tripartite Agreement (discussed below), and any seismic upgrades to the Premises required by building code.

Pier 17: If Tenant decides to expand the museum into Pier 17, then it will be required to repair the substructure and seismically upgrade Pier 17, including the

shed and the north apron, the remainder of the east apron and the Pier 17 marginal wharf, and, if not previously performed, install a permanent sewer hook-up to service vessels berthed at the east apron.

Repairs and Maintenance: Tenant will be responsible for repair and maintenance of the Premises throughout the term, except that Tenant has no obligation to repair damage caused by Port's activities. However, if damage is caused by the berthing of a "Tenant Partnered Vessel"[4] at the east apron, Tenant will be responsible for repairing such damage. Starting with the 6th anniversary date of the Lease and continuing every 5 years thereafter, Tenant is required to perform inspections of the substructure, submit a substructure condition report to Port and establish a budget and schedule for making required maintenance and repairs to the substructure. Tenant is required to establish and maintain a Substructure Reserve Account and make annual contributions of $50,000 for the 2nd through 5th anniversary dates, and then the amount is reset every five years to an adequate funding level for the agreed-upon budget and schedule as reasonably approved by the Port.

Operating Covenants: Tenant is required to: (i) manage and operate the Premises at no cost to Port and to maintain the Premises consistent with a first-class mixed use museum/retail/restaurant project located in San Francisco; (ii) keep the museum open to the public at least 5 days per week; (iii) keep the west security gates open when the museum is open so that the public can see the outdoor exhibits; (iv) install and fly a Port flag on the roofs of Pier 15 and Pier 17; (v) obtain Port's consent for exterior improvements; (vi) obtain Port's consent for outdoor exhibits unless certain criteria defined in the Lease are met, in which case prior Port consent is not required; (vii) remove graffiti promptly from the Premises; (viii) abide by the Mitigation Monitoring and Reporting Program attached to the Lease; (ix) comply with the Transportation Management Plan attached to the Lease; (x) abide by rules for the use of motorized carts on the Premises; and (xi) perform Tenant's obligations and conditions as set forth in the BCDC Permit, including the removal of Bay fill, whether on or off the Premises.

Mitigation Monitoring & Reporting Program and Environmental Protection Plan: In order to mitigate any potential significant environmental impacts of the Project and operation of the Premises, Tenant agrees to comply with the Mitigation Monitoring & Reporting Program and with the Environmental Protection Plan attached to the Lease.

Utilities: Tenant is responsible for providing all utilities to the Premises, including installation and connection, and for separating utilities from adjacent properties.

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[4] *A "Tenant Partnered Vessel" is a vessel berthed at the east apron whose owner or operator is Tenant, or whose owner or operator has entered into a written agreement with Tenant pursuant to which such owner or operator agrees to berth its vessel at the east apron or where there exists a programmatic and physical connection between the berthing of such vessel at the east apron and the activities, programs or exhibits within the Museum.*

Indemnification and Waiver: The Lease contains indemnification and waiver provisions but has modified the Port's exposure from typical leases as follows: the provisions regarding indemnities, obligations to defend and waivers do not extend to losses (i) arising out of the use or occupancy of the maritime space in Pier 17 (Baydelta's premises) or (ii) arising out of the Port's exercise of its reserved rights, except that, if a Tenant Partnered Vessel docks at the east apron with Port consent, that activity will not be considered an exercise of Port's reserved right. The Port will indemnify Tenant for losses arising out of the Port's exercise of its reserved rights, but the Port's liability will be apportioned under the California theory of comparative negligence (which assesses damages based on the party's proportionate share of liability).

Defaults and Remedies: If Tenant defaults under the Lease, Port has all rights available at law or in equity, including the right to keep the Lease in effect and collect rent and the right to terminate the Lease. If the Port defaults by failing to comply with its reserved rights or with the berthing restrictions described above, Tenant has the right to seek actual damages (but not consequential, incidental or punitive damages) or equitable relief. However, Tenant may only pursue collection of such actual damages after obtaining a final, unappealable judgment. Payment of damages will be paid first from Port's insurance proceeds, second, as an offset from rent, and third, from annual installment payments made over a 10-year period as required to satisfy all remaining actual damages due to Tenant.

Leasehold Mortgages: Tenant will be permitted to mortgage its leasehold interest (but not the fee) in the Premises by way of no more than two mortgages, with Port's prior consent. A mortgage may be given only to an institutional lender or a lender approved by Port in its sole discretion. A mortgage may be granted only for the purposes of financing construction of the improvements, for permanent take-out financing or for refinancing.

City Requirements: Tenant is required to comply with all City policies and ordinances now in effect or as they may be amended from time to time.

Key Exhibits to the Lease are summarized below:

Transportation Management Plan ("TMP")
The TMP is being drafted and will be attached to the Lease prior to close of escrow. It will contain provisions addressing various transportation issues. The objectives of the TMP are to reduce the number of private automobile trips to the Premises; reduce the number of single-occupancy automobiles parking at or near the Premises; assist in bringing about an overall reduction in automobile dependency through education, assistance and incentives; and encourage museum employees and visitors to take public transit and other modes of travel besides single-occupancy automobiles. Within six months after the museum opens to the public, and annually thereafter, Tenant will be required to submit a report to the Port addressing any deficiencies of the TMP or of the museum's operations regarding transportation.

Dredging: The Port has the right, but not the obligation, to dredge the Restricted Berthing Area if required to operate its water taxi service. Tenant has the obligation to dredge the Restricted Berthing Area at its sole cost if needed for Tenant's vessels. Tenant also is obligated to initially dredge the Pier 17-19 water basin for Baydelta's tugboats (pursuant to the Tripartite Agreement, discussed below). If for some reason the Tripartite Agreement is terminated prior to dredging of the Pier 17-19 water basin, Tenant is obligated to dredge the basin to a specified depth, upon Port request, and the Port has until the 5th anniversary date of the Lease to request such dredging. Tenant also is responsible for maintenance dredging in the Pier 17-19 water basin, if needed, and agrees to pay for the first $320,000 for up to 2 maintenance dredging episodes within the first 5 years of the Baydelta lease; if costs exceed that amount, the Port will contribute up to $80,000 through a rent credit granted to Tenant.

Insurance: Tenant will be required to carry a complete package of insurance on the Premises, which has been approved by the City's Risk Manager.

Damage or Destruction: In the event of a casualty, Tenant may not terminate the Lease or stop paying rent, and must restore the Premises, except in the following circumstances: if there is a "major casualty" (meaning the cost of damage exceeds 60% of the cost to replace) occurring in the last ten years of the term or before completion of the Phase II Improvements, or if there is an "uninsured casualty" (as defined in the Lease) occurring anytime during the term, then Tenant may elect either to restore the Premises or terminate the Lease.

Hazardous Materials Provisions: Port's standard provisions are included in the Lease.

Security Deposits: A security deposit equal to two months' minimum rent for Pier 15 and Pier 17 is required. Environmental Financial Performance Deposit: $30,000; Environmental Oversight Deposit: $10,000.

Assignment: Tenant may not assign the Lease without the prior written consent of the Port (which consent may be withheld in Port's sole discretion) except to a permitted mortgagee, to an entity for the purpose of taking advantage of historic preservation tax credits or tax-exempt bonds, or to an entity affiliated with Tenant.

Port's Participation in Transfer Proceeds: The Port will receive 100% of the transfer proceeds from a sale or assignment (but not refinancing) of the leasehold during the Lease term, less certain deductions.

Subletting: Tenant may not sublease any portion of the Premises without the Port's prior consent, except to an entity affiliated with Tenant. The Port may withhold its consent if the sublease rental rate for a non-affiliated 3rd party is more than 10% below the Port's minimum monthly rental rate schedule. Subleases with uses inconsistent with the public trust must be limited to 5-year terms. The Port will receive 100% of sublease rent in excess of Tenant's rent for subleases that were in place on the Commencement Date and 50% of sublease rent in excess of Tenant's rent for subleases that Tenant executes after the Commencement Date.

Operations Plan
Tenant has prepared a draft Operations Plan which is being reviewed by Port's environmental division. When finalized, the plan will be attached to the Lease prior to close of escrow. The plan details how the museum will store, use and dispose of hazardous materials used in conjunction with its operations in compliance with hazardous materials laws.

Environmental Protection Plan (EPP)
A draft Environmental Protection Plan has been prepared and will be finalized and attached to the Lease prior to close of escrow. The EPP sets forth the procedures for handling dust, debris, hazardous materials, fueling activities, etc. during construction of the improvements at Piers 15 and Pier 17. It also lists the persons responsible for enforcing the mitigation measures set forth in the Mitigation Monitoring and Reporting Program.

C. TRIPARTITE AGREEMENT

Baydelta, a tug and tow operator, currently leases space at Pier 15 in the bulkhead, the south apron and water adjacent to the south apron. It has been a Port tenant since 1982. Its lease expires on November 30, 2010. The Exploratorium desires to incorporate Baydelta's premises at Pier 15 into the Exploratorium Project and, accordingly, the Port, the Exploratorium and Baydelta have negotiated a Tripartite Agreement, the purpose of which is to effectuate the construction of new space for Baydelta at Pier 17 and the relocation of Baydelta to Pier 17 so that the Exploratorium can commence construction of its Project prior to the expiration of Baydelta's lease at Pier 15. Baydelta is willing to vacate its premises at Pier 15 before its lease expires if the Port and Exploratorium execute the Transaction Documents for the Project and certain other conditions are met. The Tripartite Agreement sets forth the terms and conditions for relocating Baydelta to its new space, including the construction of Baydelta's new premises at Pier 17 and execution of a new lease between the Port and Baydelta ("New Baydelta Lease").

The key terms of the Tripartite Agreement are as follows:

Term: The Tripartite Agreement will go into effect as soon as it is signed by all parties after Port Commission approval; its effectiveness is not dependent on Board of Supervisors approval or execution of the Lease or Development Agreement. The Agreement will terminate when Baydelta is relocated to its new premises at Pier 17 or if the Lease is not approved by the Board of Supervisors or if the Exploratorium is unable to obtain regulatory approvals for the Project.

Improvement Work: The Exploratorium will undertake for Baydelta (a) construction of new office and warehouse space at Pier 17; (b) rehabilitation of the north apron at Pier 17 and installation of a fendering system; (c) dredging of the Piers 17-19 water basin to accommodate Baydelta's tugboats; and (d) installation of utilities, all in accordance with a scope of work which is attached to the Tripartite Agreement.

CEQA Clearance: The Tripartite Agreement provides that the Port will not enter into the Project or into a new lease with Baydelta until environmental review of the Project,

including the relocation of Baydelta, is completed. The Final EIR for the Project does include a discussion of the relocation of Baydelta from Pier 15 to Pier 17. As noted earlier, the Final EIR has been certified.

New Baydelta Lease at Pier 17: The Port has negotiated a lease with Baydelta for its new premises at Pier 17, described below. The New Baydelta Lease will not become effective until escrow has closed on the Exploratorium Project and the Exploratorium has substantially completed Baydelta's improvements.

BCDC Permit: the Exploratorium is responsible for obtaining any required amendments to Baydelta's existing BCDC Permit to allow for its relocation to Pier 17.

Maintenance Dredging: The Exploratorium is responsible for maintenance dredging in the Pier 17-19 water basin, if needed to maintain the required depth, and agrees to pay up to $400,000 for up to 2 dredging episodes within the first 5 years of the New Baydelta Lease. The Exploratorium will maintain a fund of $400,000 for this purpose. Baydelta will be responsible for dredging costs that exceed this amount. The Port has agreed to obtain permits and manage the maintenance dredging process.

D. NEW BAYDELTA LEASE

The Port and Baydelta have negotiated a new lease, Lease No. L-14605, for the premises at Pier 17 to be constructed by the Exploratorium ("New Baydelta Lease"). The New Baydelta Lease will not go into effect until the conditions of the Tripartite Agreement (explained above) have been satisfied and the relocation has occurred. Port Commission approval is required, even though this is a maritime lease, because the Tripartite Agreement requires such approval as a condition to close of escrow of the Tripartite Agreement.

The key terms of the New Baydelta Lease are as follows:

Premises:
Parcel A: Approximately 2,916 square feet of office
Parcel B: Approximately 2,484 square feet of shed
Parcel C: Approximately 13,923 square feet of stringer comprising the North Apron
Parcel D: Approximately 29,093 square feet of submerged land (water) along the entirety of the North Apron
all as shown on the New Baydelta Lease Premises Site Plan attached hereto as **Attachment 9**.

Term: From the commencement date (date of relocation to the new premises at Pier 17) until November 30, 2015, plus three 5-year options.

Right to Terminate: Baydelta has the right to terminate the lease if the costs of maintenance dredging of the Piers 17-19 water basin to the required depth exceed $400,000 (the amount the Exploratorium has agreed to pay) or if the condition of the substructure beneath the premises renders the premises unsafe for use and materially and adversely impact Baydelta's operations.

Permitted Uses: Tugboat operations, berthing of tugboats, vessel maintenance, storage and ancillary support office.

Monthly Base Rent: From the commencement date until November 30, 2010 (the date the current lease expires), the monthly base rent will be the then current monthly rent due under the existing Pier 15 lease, as adjusted, less the portion of rent that Baydelta pays to the Port for an area subleased to a subtenant. From December 1, 2010 through November 30, 2011, the monthly base rent will be as follows:

Office:	$3.80 per sq ft, or $11,080.80
Shed:	$ .94, per sq ft or $ 2,334.96
North Apron:	$ .23, per sq ft or $ 3,202.29
(No charge for water)	
Total monthly base rent:	$16,618.05

Monthly base rent will be increased by 3% starting December 1, 2011 and every year thereafter until December 1, 2014 (or December 1, 2019 if Baydelta exercises its first renewal option). During the second and third renewal options, if any, monthly base rent will be adjusted to equal the average rental rates for comparable space, i.e., for warehouse shed and apron space in similar condition and for similar uses within Port jurisdiction.

Maintenance and Repair: Other than the roof, substructure and exterior walls (which are the obligation of the Exploratorium to maintain and repair), Baydelta has sole responsibility to maintain and repair its premises, and the Port has no maintenance or repair obligations.

Maintenance Dredging: Baydelta is responsible for dredging in the Pier 17-19 water basin, if needed to maintain the required depth, except for the first $400,000 of maintenance dredging costs, which the Exploratorium will pay per the Tripartite Agreement (of which the last $80,000 will be reimbursed to the Exploratorium by the Port per the Lease).

Parking: Throughout the term of the New Baydelta Lease, Baydelta will be entitled to utilize up to 16 parking spaces located on the marginal wharf between Pier 17 and Pier 19. It will enter into separate parking licenses with the Port (or Port's operator). The monthly fee will be $100 per space starting on December 1, 2010, and will increase annually by 5%.

Security Deposit: $38,529.75; Environmental Oversight Deposit: $10,000; Environmental Financial Performance Deposit: $45,000.

License for Use of Heavy Crane: If Baydelta needs to use a heavy crane (one that exceeds the load restrictions of the premises) to service its vessels, the Port has agreed to license a suitable space to Baydelta for such use, if available, and will not charge dockage or wharfage fees (limited to 14 days/year) but will require payment of fees that may be assessed by other parties, such as terminal security fees.

City Requirements. Baydelta is required to comply with all City policies and ordinances now in effect or as they may be amended from time to time.

E. SECOND AMENDMENT to MOU with SFMTA

To accommodate the relocation of Baydelta, the San Francisco Municipal Transportation Agency ("SFMTA") has agreed to permanently reduce its premises in Pier 17 by one bay (720 square feet) and to temporarily reduce its premises by another bay for Exploratorium's use during the construction of Baydelta's improvements. The use fee in the MOU will be reduced permanently by $564 per month and temporarily during construction by another $564 per month. The Memorandum of Understanding (MOU) with the SFMTA has been amended ("Second Amendment") to reflect these changes, and in addition, the cost of living adjustment has been modified from a fixed 3% increase to the lesser of 3% or the percentage increase in the Consumer Price Index. Upon approval by the Port Commission, the Second Amendment to MOU will be executed by the Port's Executive Director, but the proposed reconfiguration will not go into effect until the Port gives notice to SFMTA at the Exploratorium's request.

E. PARKING AGREEMENT

Port Staff and the Exploratorium also have negotiated a separate Parking Agreement. Port Commission approval is required because the term exceeds five years. The Port will grant to the Exploratorium a non-exclusive and non-assignable right to use a maximum of 200 parking spaces for automobile parking at Seawall Lot 321, located across the street from the Project Site on the Embarcadero at Green Street. See the Parking Agreement Site Plan attached hereto as **Attachment 10**. Included within the 200 spaces is the right to exclusive use of up to 30 parking spaces for museum employees. In addition, the Exploratorium will be granted the non-exclusive use of up to 20 parking spaces for automobile parking in the adjacent Union Street right-of-way (ROW) for so long as the ROW is used as a parking lot. These parking lots will be operated by an independent operator under contract directly with the Port. The Exploratorium will pay market rate parking fees for the use of the parking spaces. The Parking Agreement allows the Exploratorium to establish validated and valet parking, on condition that the Port does not lose parking revenues as a result of these arrangements. The Parking Agreement will commence when the museum opens to the public and will expire on the day before the 16th anniversary date of the commencement of the Lease.

CURB LICENSES: The Port is granting to the Exploratorium three revocable, personal, non-assignable and non-exclusive Licenses to facilitate the museum's passenger loading needs. Port Commission approval is required because the term of each License is for one year and will be extended automatically every year for up to 66 years, terminating only if the Lease terminates. Under the Lease, the Exploratorium is required to employ a transportation monitor, in accordance with the Transportation Management Plan attached to the Lease, for the activities in the license areas.

F. LICENSE No. 14714 for CURB INDENT at PIER 15

License Area: Approx. 1,190 square feet of curb space in front of Pier 15 (5 metered parking spaces), as shown on the Pier 15 Curb Indent Site Plan attached hereto as **Attachment 11**.

Permitted Activity: For construction of the curb indent and, upon completion, for operation of a passenger loading/unloading zone for automobiles and taxis of visitors and invitees to the museum. If the curb indent is completed before the museum is constructed, small vehicles may use the License Area for deliveries during museum construction.

License Fees: During the construction period, License fees will be $450 per month. During museum operations, License fees will be fixed annually based on collections for 5 comparable Port metered parking spaces in the immediate vicinity.

Improvements: Pursuant to the Final EIR, certain features must be built into the Pier 15 curb indent to minimize conflict with bicyclists using the Embarcadero roadway. These features have been incorporated into the scope of work set forth in the License and include (i) a lane separator curb system to limit access to the curb indent to two ingress and egress points, one at the south end and one at the north end; (ii) bicycle-specific pavement markings in the bicycle lane to increase driver awareness of the presence of the bicycle lane; (iii) appropriate signage; and (iv) a continuous painted line demarcating the edge of the bicycle lane from the curb indent.

G. LICENSE No. 14715 for CURB INDENT at PIER 17

License Area: Approx. 1,932 square feet of curb space (8 metered parking spaces) in front of Pier 17, as shown on the Pier 17 Curb Indent Site Plan attached hereto as **Attachment 12**.

Permitted Activity: For construction of the curb indent and, upon completion, for operation of a passenger loading/unloading zone for school buses and charter buses of visitors and customers of the museum. If the curb indent is completed before the museum is constructed, small vehicles may use the License Area for deliveries during museum construction.

License Fees: During museum construction, License fees will be $720 per month. During museum operations, License fees will be fixed annually based on collections for 8 comparable Port metered parking spaces in the immediate vicinity.

Improvements: The curb indent must include the following features (i) depth of the indent must be 9' from the curb edge; (ii) bicycle-specific pavement markings in the bicycle lane to increase driver awareness of the presence of the bicycle lane; (iii) appropriate signage; and (iv) a continuous painted line demarcating the edge of the bicycle lane from the curb indent.

H. LICENSE No. 14716 for CURB SPACE at GREEN STREET

License Area: Approx. 240 linear feet of curb space on the western side of Green Street (12 metered parking spaces), as shown on the Curb Space-Green Street Site Plan attached hereto as **Attachment 13**.

Permitted Activity: For temporary staging of school buses and charter buses that cannot be immediately accommodated at the Pier 17 curb indent. Use is limited to times when Licensee is using the Pier 17 curb indent.

License Fees: License fees will be fixed annually based on collections for 12 comparable Port metered parking spaces in the immediate vicinity.

I. OTHER DOCUMENTS

Additional licenses and documents have been prepared (or will be prepared prior to close of escrow) but will not be attached to the Lease or to the Development Agreement and do not require Port Commission approval.

IV. PROJECT ANALYSIS

Lease

The Exploratorium will pay market rate rent on Pier 17 in the amount of $783,381 per year, increasing annually by 3%. This compares with $778,825 per year that the Port currently receives from Pier 17. If the Exploratorium has any retail subtenants at Pier 17, the Port will receive percentage rent in excess of the minimum rent. The obligations to lease, operate, build tenant improvements, maintain and repair Pier 17 will be solely on the Exploratorium. A rent credit for Pier 17 substructure repair work will be granted if and when the Exploratorium expands the museum into Pier 17 and performs the work. Since the rent credit cannot be applied before the 11th year of the Lease, the Port will have a guaranteed revenue stream on this facility for at least the first ten years of the Lease. (The amount of the rent credit will be determined at the time the work is proposed to be performed, so it cannot be determined at this time how many years it will take to amortize the cost of the Pier 17 repair work). The Lease provides for compounded interest and the rent credit will apply against 100% of the base rent but not against percentage rent.

The Port will continue to receive rent directly from Baydelta under the New Baydelta Lease at Pier 17. Baydelta's rent will be increased from $127,212 per year in effect today to $145,308 per year, effective upon relocation to Pier 17. In addition, Baydelta will pay separately for parking spaces on the marginal wharf (currently Baydelta's parking is included in the Pier 15 rent, and employees park their vehicles inside the Pier 15 shed). Assuming Baydelta uses all 16 parking spaces, the annual increase in revenue to the Port from the New Baydelta Lease, including parking, will be $37,296.

The Exploratorium's rent on Pier 15 will be $944,126 annually. The Port is granting a 50-year rent credit on Pier 15 to pay for the substantial cost of the substructure repair work and removal of the fill required to be removed under the *Special Area Plan* (i.e., the asphalt paving in the valley, the connector building and the non-historic additions to the Pier 15 and Pier 17 sheds). Although there will be no rental stream from Pier 15 for many years, the Port will receive market minimum rent from Pier 15 after the 50th year.

Explanation of Pier 15 Rent Credit

After completing due diligence investigations the Exploratorium determined that the total development cost for the Project will be $175 million. The parties agreed that the cost of the substructure repair on Pier 15 (not including seismic work) and to remove the fill is $29.2 million. This amount was confirmed by an outside engineering consultant retained by the Port. Applying the rent credit against 100% of the minimum rent and assuming compounded interest at 5.5% per year on the outstanding balance, the number of years to amortize the rent credit is 50 years, calculated as follows:

Substructure Repair (no seismic)	$ 29,200,000
Less Historic Tax Credits (estimate)	(3,358,000)
Amount to Amortize	$ 25,842,000
Years to amortize	50

The rent credit could take less than 50 years to amortize if minimum rent escalates at more than the assumed 3% per year or historic tax credits are greater than assumed here or the substructure costs are less. Conversely, it could take longer than 50 years to amortize if rent escalates less than anticipated or historic tax credits are less or substructure costs are more. For simplicity, the parties agreed to a fixed 50-year rent credit.

Although the rent credit period is lengthy, the deterioration at Pier 15 is significant, and the Port does not have the funds to repair the substructure or maintain the pier for 66 years. By using the Exploratorium's capital to effectuate these repairs, the Port will save an important historic resource and at the same time provide a new cultural institution for San Francisco residents and visitors to the waterfront.

Since the rent credits will not be applied against percentage rent, the Port will have the opportunity throughout the term to participate in the success of the museum's operations if percentage rent exceeds minimum rent. Based on the Exploratorium's forecast of projected visitation and sales at Pier 15, percentage rent payments to the Port in excess of the minimum rent are projected to total approximately $208,000 for the initial 15-year operational period, ranging from $0 to $72,500 per year. If the Exploratorium were to receive receipts 15% higher, the potential percentage rent payments to the Port would be approximately $2.3 million for the same period, with annual payments of up to $273,000. However, it should be noted that two provisions in the Lease will reduce the Port's opportunity to receive percentage rent: (1) the annual reconciliation, which calculates the percentage rent based on gross revenues for the entire year rather than per calendar quarter. This allows for slow periods at the museum to reduce the revenue generated during the busier seasons, and (2) if and when the museum expands into Pier 17, the base rent on both Pier 15 and Pier 17 will be deducted from the percentage rent generated at the site, thereby reducing (and very likely eliminating) the amount of percentage rent to the Port.

Parking Agreement

The Port will receive percentage rent from the hourly and monthly parking fees received by the operator of the parking lot at Seawall Lot 321 from customers that use the lot. The Exploratorium has non-exclusive use of these parking spaces, so while it is

anticipated that many of the parkers will be Exploratorium visitors, the lot will be open to anyone. The Port currently receives $454,000 in annual revenue from Seawall Lot 321, which is used primarily for daily/monthly parking and is underutilized much of the time. When the museum opens, this parking will be converted to hourly use, except for the 30 monthly spaces that the Exploratorium will be entitled to lease. It is estimated that customers of the Exploratorium alone will generate annual parking income to the Port of approximately $514,082.

Curb Indent License at Pier 15

Currently, the annual revenue from the two street parking spaces in the Pier 15 curb indent is $2,160. When the Exploratorium expands this indent to accommodate 5 parking spaces, the fees are projected to be approximately $5,400 per year.

Curb Indent license at Pier 17

Currently, the Port receives no revenue from street parking in front of Pier 17 because there is no curb indent. When the Exploratorium builds the curb indent to accommodate 8 parking spaces, the fees are projected to be approximately $8,640 per year.

Curb Space License at Green Street

Currently, the annual revenue from the street parking spaces on this section of Green Street is $12,960. When the museum opens, the fees are projected to be approximately $12,960 per year.

Other Benefits to the Port and to the City

In addition to rent, the Port and the City will achieve many benefits from this Project:

- The Exploratorium would be required to repair the substructure of Pier 15, the connector building and the valley, which are among the most deteriorated of the Port's facilities and will be forever lost if not repaired;
- Pier 15 and the valley will be rehabilitated and seismically upgraded to the Secretary's Standards to ensure sensitive treatment and preservation of the building's historic elements and to ensure that future generations will be able to see and enjoy this historic resource;
- The Project will continue the Port's efforts, begun with Pier 1, the Ferry Building and Piers 1½-3-5, to preserve the Port's deteriorating facilities along the waterfront;
- The Port will not have to finance (other than through rent credits) the rehabilitation of these severely deteriorated facilities because the Exploratorium is providing the financing. As described in the Port's 10-Year Capital Plan, the Port does not have the funds to make needed repairs;
- The valley and connector building will be removed to provide public access and new views of the water, thereby fulfilling one of the Port's goals to increase public access to the waterfront and connection to the Bay;

- The Project will create a distinctive design and presence on the waterfront that will make the Exploratorium a landmark that will appeal to residents of San Francisco and the Bay Area, as well as to visitors from around the globe;
- The museum location in the Northeast Waterfront will enable people to take advantage of the tourist activity that exists on the path from the Ferry Building to Fisherman's Wharf;
- The Port will retain and create new maritime uses at the piers, including ship berthing at the east apron, tug and tow operations at the north apron and water taxi service at the south apron;
- Because of the excellent access to public transit to and from Piers 15 and 17, the museum will be able to reach the under-served and increase the diversity of the museum's visitor base;
- The Project will promote the City's "Transit-First" policy by relocating the museum to a site with better access to public transportation than its current location;
- The Project will contribute to San Francisco's economy through visitor support of local restaurants, hotel and retail establishments; and
- The Project will create construction jobs and new permanent jobs.

V. AMENDMENTS TO WATERFRONT PLAN AND DESIGN & ACCESS ELEMENT

The *Waterfront Plan* is the Port's adopted land use document for property within Port jurisdiction, which provides the policy foundation for waterfront development and improvement projects. The *Waterfront Plan* policies were developed in concert with those in the *Special Area Plan.*

The Exploratorium Project complies with most of the applicable policies in the *Waterfront Plan* and its accompanying *Waterfront Design & Access Element.* For Piers 15 and 17, the *Waterfront Plan* and *Special Area Plan* include policies to remove the valley between Piers 15 and 17, including the connector building and non-historic additions to the Pier 15 and Pier 17 sheds.

The Exploratorium Project, as described above, does not provide for that amount of fill removal. Port Staff request Port Commission approval of amendments to the *Waterfront Plan*, as set forth below, to maintain policy consistency with the Project. The Exploratorium has submitted an application to BCDC, which is pending, to similarly amend the *Special Area Plan.*

Proposed Amendments to the Waterfront Plan

1) Page 49A, "Map A"; Page 57A, "Map B"; and Page 109, "Northeast Waterfront Subarea" map: amend graphic in each map as to Piers 15 and 17 so that shading within the valley associated with "Piers Designated for Removal" reflects 37,000 square feet of fill removal.

2) Page 117, Development Standards Policy "e" – amend as follows: "Remove a portion of the Pier 23 shed bayward of the connector building to create a Northeast Wharf Open Water Basin, and approximately 37,000 square feet of the valley between Piers 15 and 17, and create a new view corridor between Piers 15 and 17, all to expand Bay views."

3) Page 179 (third dash) – amend as follows: "Remove approximately 37,000 square feet of the deck and pilings that form the "valley" between Pier 17 and Pier 15 ~~and the non-historic shed additions within 20 years~~."

Proposed Amendments to the Waterfront Plan Design & Access Element

1) Page 24 - amend subparagraph (F) as follows, "**Pier 15-17 Valley Open Water Area**: Remove approximately 37,000 square feet of the decking and piles between the piers~~, 1950's building additions also to be removed~~."
2) Public Access and Open Space Map, opposite Page 22 – amend graphic as to Piers 15 and 17 so that shading within the valley reflects 37,000 square feet of fill removal. Amend text in Item F to read "Pier 15-17 Valley (partial removal)."

3) Page 82 (last paragraph, second sentence) - amend as follows: ". . . maintain the Open Water Basin between Piers 3 and 9, and remove approximately 37,000 square feet of the "valley" ~~and associated buildings~~ and create a new view corridor between Piers 15 and 17~~added in the 1950's to add an additional Bay view~~."

4) Page 85, Piers 29-15 Design Criteria, Site/Views item, 2nd sentence – amend as follows: ". . . Remove about 315 feet from the east end of the Pier 23 shed, ~~and~~ remove approximately 37,000 square feet of the valley and create a new view corridor between Piers 15 and 17 ~~and the adjoining bays added to the pier sheds in the 1950's, to expand views of the Bay~~."

VI. LAND USE ISSUES

The Public Trust

The Port Commission is being asked to make certain findings that the proposed development of Piers 15 and 17 promotes public trust objectives as required under the Charter, the Burton Act and common law public trust doctrine, including rehabilitation of historic resources, dedication of public access, incorporating uses within the buildings for public purposes and retention of maritime activities. The Project will accomplish all of these objectives by repairing and improving Pier 15 and the valley in accordance with the Secretary's Standards, creating at least 78,000 square feet of new public access, including new views to the Bay, opening up the ground floor of the Pier 15 bulkhead building and Observatory Building to public uses such as the museum store and cafes, and incorporating maritime uses at the east apron, the north apron and the south apron. The Transaction Documents are necessary to accomplish these trust purposes, which purposes also are consistent with the policies and objectives of the Waterfront Plan. Preserving these historically and architecturally significant maritime trust assets

promotes statewide interests by encouraging waterborne transit, improving navigation and enhancing public use and enjoyment of the properties. The Project will promote maximum public use of the piers and will enhance the public's enjoyment of these historic maritime resources.

The Waterfront Plan

The *Waterfront Land Use Plan* ("Waterfront Plan") is the Port's adopted land use document for property within Port jurisdiction, which provides the policy foundation for waterfront development and improvement projects. Pier 15 and Pier 17 are included in the Northeast Waterfront Area and are identified in the Waterfront Plan as "Transitional Maritime Areas" in recognition of the changing nature of the maritime industry and of this area of the waterfront. As noted earlier, the Port conducted a study of Pier 15 and Pier 17, in accordance with the Waterfront Plan, before entering into negotiations with the Exploratorium for this Project.

Objectives of the Waterfront Plan for the Northeast Waterfront Area are the following:

- to maximize opportunities for the retention of maritime operations. The Project will accomplish this objective by retaining ship berthing at the east apron, by dredging the Piers 17-19 water basin, reconstructing the dilapidated north apron and providing new facilities for Baydelta, the Port's tug and tow operator, and by building a water taxi dock at the south apron for operation of a water taxi service along the waterfront.
- to activate the Northeast Waterfront Area with an array of daytime and nighttime uses that are not primarily tourist-oriented. This objective will be accomplished by the Exploratorium's plans to be open during the day and evenings, not just for museum visitors but for visitors to the restaurants and to the special events venue in the Observatory Building, which will host many evening functions. An array of activities will be planned in the outdoor exhibit areas of the museum, providing daytime and nighttime attractions and new reasons to visit the waterfront.
- to protect and enhance the historic maritime character of the area. The Exploratorium's plans to rehabilitate, repair and seismically upgrade Pier 15 (and possibly Pier 17 in the future), in accordance with the Secretary's Standards, will preserve these historic resources for future generations and ensure that they are sensitively restored. The pier shed will be retained to look very much like it did in the past, similar to Pier 1, so the maritime character of the area will be retained.
- To provide public access amenities which highlight newly-created points of interest. The Project will include extensive public access, including the PortWalk, which will extend access around the entire perimeter of Pier 15; a water lagoon and walkways in the valley; an expanded deck on the south apron to encourage public gathering for viewing the maritime activities and the Bay; and the Bayside History Walk, a public access way into the lobby of Pier 15 that will be designated as a continuation of the Bayside History Walk which commences at Pier 1 and which will be open for pedestrian public access. The PortWalk will enable the public to view the waterside exterior elevations of Pier 15 and the existing interior structural and finish elements within the building, including visibility of Pier 15's existing trusses and roof monitor. Public access amenities will include outdoor exhibits for the public to view and lots of open, free seating. Removal of the connector building will create a new view corridor to the Bay and access to the east apron where no access currently exists.

The Project will be the first major development of a museum on Port property (which will include various water-related exhibits) and will clearly create a new point of interest.

The Waterfront Plan also includes policies to remove the valley between Piers 15 and 17, including the connector building, and to remove the non-historic additions to the Pier 15 and Pier 17 sheds. The Project does not provide for removal of the foregoing in its entirety, so therefore the proposed Project is not consistent with the Waterfront Plan in this regard. However, given the high level of trust-consistent uses within the Project and consistency with the overall goals and objectives of the Waterfront Plan, as noted above, the removal of less than the entire amount of fill required to be removed is justified, and the Waterfront Plan should be amended to require less fill removal at the Site.

SPECIAL AREA PLAN

As noted in Section V., Amendments to Waterfront Plan and Design & Access Element, the Project is not consistent with the *Special Area Plan* because it proposes to remove less fill from the Site than is required to be removed under the *Special Area Plan*, which requires removal of the valley between Piers 15 and 17, the connector building and the non-historic additions to the Pier 15 and Pier 17 sheds. The Exploratorium has submitted an application to BCDC to amend the *Special Area Plan* to address this issue. The Project will require BCDC approval of the *Special Area Plan* amendments as well as a BCDC Major Permit as requirements to close of escrow on the Project.

VII. APPLICATION FOR MAJOR PERMIT FROM BCDC

The Port Commission is requested to authorize the Executive Director, or her designee, to sign and file an application, as co-applicant with the Exploratorium, for a Major Permit from BCDC, which is a required regulatory approval. This authorization is necessary because BCDC requires an applicant that is a public agency to submit a resolution from the policy board for that agency authorizing the filing of the application.

VIII. NEXT STEPS

If the Port Commission adopts these recommended actions at its September 8, 2009 meeting, the following additional approvals must be obtained before the Port will convey the Lease and before construction can proceed on the Project:

- Approval by the Board of Supervisors of the Lease, Parking Agreement and three Curb Licenses
- Letter from the State Lands Commission staff that the Project is consistent with the public trust
- Amendment of the *Special Area Plan*
- Issuance of a BCDC Major Permit
- Issuance of a Port building permit for construction of the improvements
- Issuance of Port encroachment permits for construction of the curb indents
- Issuance of permits from the Army Corps of Engineers, the Dredged Materials Management Office and the Regional Water Quality Control Board for construction in the water

The Exploratorium expects to receive the required regulatory approvals and permits by March 2010. Construction will commence soon thereafter and will take approximately 25 months. After construction is completed, the Exploratorium expects to receive certification from the National Park Service that the construction complies with the Secretary's Standards, making the Project eligible for Federal Historic Preservation Tax Credits.

IX. CONCLUSION:

Today's hearing is a major step forward in the process of bringing the Exploratorium museum to the waterfront. The benefits of having this active, new use on Port property will be enjoyed for many generations by residents and visitors alike. The Port's dilapidated facilities will be rehabilitated and the museum will have a new expanded home. Approval today will allow the Project to proceed to the Board of Supervisors and to move forward to obtain the other required approvals.

Port Staff is grateful to Mayor Gavin Newsom and his staff for their support of the Exploratorium Project.

Thanks are due to the Port Commission and to many members of Port Staff who assisted on this Project.

X. RECOMMENDATION:

Port Staff respectfully request:

(1) Adoption of the environmental findings under CEQA;
(2) Adoption of the mitigation and improvement measures and the Mitigation Monitoring and Reporting Program;
(3) Approval of Amendments to the Port's *Waterfront Land Use Plan* and *Design and Access Element*, as described above;
(4) Approval of the Transaction Documents, in conformance with the terms described above, and of the Schematic Drawings; and
(5) Authorization to file an application with BCDC for a Major Permit.

Prepared by: Jennifer Sobol, Project Manager

For: Byron Rhett, Deputy Director
Planning & Development

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PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 09-46

WHEREAS, The Planning Commission certified the Final Environmental Impact Report ("FEIR") for the Exploratorium project in Planning Department Case No. 2006.1073E, as complete and its contents and the procedures through which it was prepared, publicized and reviewed complied with the California Environmental Quality Act (Cal. Pub. Res. Code §§ 21000 *et seq.*, "CEQA"), the State CEQA Guidelines (Cal. Admin. Code title 14, §§ 15000 *et seq.*, "CEQA Guidelines"), and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"), and as adequate, accurate, and objective by Motion No. M-17916 on July 9, 2009; and

WHEREAS, The Port Commission has reviewed and considered the information contained in the FEIR and hereby adopts the following findings with respect to the FEIR:

1. The Exploratorium proposes to relocate from the Palace of Fine Arts, at 3601 Lyon Street, to property owned by and under the jurisdiction of the Port of San Francisco ("Port") on the waterfront at Piers 15/17 (Assessor's Block 9900, Lots 15, 15H, and 17) ("Project Site"), along The Embarcadero ("Relocation Project"). The Project Description contained on FEIR pages II-1-II-28a is briefly summarized below:

    a. The Project Site includes sites for both the Project and Expanded Project as described in the FEIR. Existing features of the Project Site are:

        i. Pier 15 shed and bulkhead building, a contributing resource to the San Francisco Embarcadero National Register Historic District - 136,145 gross square feet (gsf);
        ii. Pier 17 shed building, a contributing resource to the San Francisco Embarcadero National Register Historic District - 110,615 gsf;
        iii. the Connector Building - 11,773 gsf;
        iv. a paved parking area between Piers 15/17 ("Valley") - 98,350 gsf;
        v. an office shack in the Valley - 1,579 gsf;
        vi. a north apron office shack attached to the Pier 17 shed at the southwest end – 235 gsf; and
        vii. aprons and the marginal wharf – 55,211 gsf.

    b. The Exploratorium proposes to lease the Project Site from the Port. The Exploratorium would use Pier 15 and portions of Pier 17 for a museum, including the Valley, the area where the existing Connector Building is located, and the east apron (the area between the buildings and the water's edge). The use of the new space would be commensurate with the program at the Exploratorium's existing location, but in a larger facility.

c. Under the Project, the Exploratorium would occupy Pier 15 and the Valley, demolish the Connector Building and construct and occupy a new Bridge Building in the cleared area ("Bridge Building"). The Exploratorium would sublease Pier 17 to various commercial, maritime, and light industrial users, except for approximately 20,000 gsf to be used as museum support space by the Exploratorium's Center for Museum Partnerships. For approximately 5,000 gsf in Pier 17, the Exploratorium may seek a retail use, such as a restaurant, bicycle rental, or other retail user.

d. Under the Expanded Project, the Exploratorium would expand the museum program and occupy the entire Pier 17 shed in the future. The southern portion of the Pier 17 shed's west façade, part of a 1950s addition to the south façade, would be cut back by two bays in order to emphasize the original west façade. Photovoltaic panels would be installed on the shed roof and all existing light fixtures would be replaced.

e. Following publication of the draft EIR ("DEIR"), the Exploratorium began studying a design variant of the Bridge Building described on FEIR pages II-18-II-18a ("Variant") as part of the Project to respond to comments made by members of the public, the State Historic Preservation Officer ("SHPO"), and the National Park Service. The Variant would occupy a footprint similar to the Bridge Building, but with a total floor area reduced by approximately 25%, and be within the footprint of the Connector Building. All other program space outside of the Variant would remain as proposed under the Project and Expanded Project, resulting in the following changes to the Project:

    i. a reduction of approximately 4,700 gsf of special event space;
    ii. a reduction of approximately 500 gsf of restaurant/cafe space; and
    iii. total height of the Variant to the top parapet would be reduced by approximately 4 feet and the elevator overrun reduced by approximately 19 feet.

f. Overall, the Project (including the Variant) would increase the Project Site floor area by approximately 65,929 gsf by adding a mezzanine level within the Pier 15 shed. The total post-construction floor area under the Project would be 240,226 gsf and 320,841 gsf under the Expanded Project (*see* Table II-2, Exploratorium Program Summary – Project and Expanded Project, FEIR p. II-9). The existing office shack in the Valley and much of the Valley paving would be removed to expose the water and would feature outdoor exhibit areas and public access to the Bay shoreline. The north apron office shack would also be demolished to make space for the electrical transformer. The Exploratorium is in negotiations with the Port's current maritime tenant in Pier 15, Baydelta Maritime, Inc., to relocate its operations to Pier 17. The Project would also include temporary berthing for ceremonial and navy ships on the east apron and a water taxi landing attached to the south apron.

g. The Port must take the following actions for the Project and the Expanded Project to proceed:

   i. The Port Commission must adopt: (1) this Resolution adopting CEQA findings, including the Mitigation Measures and the MMRP; (2) a resolution approving amendments to the Waterfront Plan; and (3) a resolution approving the LDDA, the Lease, the Parking Agreement, other transactional documents, and schematic drawings; and

   ii. The Port's Building Department must approve demolition and construction permits.

h. Regulatory bodies other than the Port have taken or must take actions in the future for the Project and the Expanded Project to proceed, including:

   i. San Francisco Board of Supervisors: (1) Board Resolution No. 477-05, adopted June 21, 2005, exempting the Exploratorium's potential lease of Pier 15 from the City's competitive bidding policy; (2) Board Resolution No. 521-08, adopted December 16, 2008, determining the fiscal feasibility of the Relocation Project and exempting a potential lease of Pier 15 and Pier 17 from the City's competitive bidding policy; and (3) Board resolution approving the Lease;

   ii. SHPO: Review of Relocation Project under the National Historic Preservation Act, Section 106, for compliance with Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings;

   iii. Planning Commission: Certification of the FEIR by Planning Commission Motion No. M-17916, adopted on July 9, 2009;

   iv. Zoning Administrator: Determination that proposed parking and loading arrangements for the Relocation Project are consistent with the Planning Code.

   v. BCDC: (1) Approve amendments to the Special Area Plan; and (2) issue a Major Permit.

   vi. Army Corps of Engineers, Regional Water Quality Control Board, and possibly other agencies under the Joint Aquatic Resource Permit Application process: Issue permit for construction in and over water.

   vii. DMMO: Issue dredging permit.

2. The Project Objectives, as stated on FEIR pages II-2-II-3, are summarized below, together with reasons the Project and Expanded Project meet the Project Objectives (in italics). In approving the Project and the Expanded Project, the Port Commission has carefully considered the attributes and environmental effects of the Project and the Expanded Project and the

Alternatives discussed in the FEIR. This consideration, along with the staff report and public testimony, has resulted in the Project and the Expanded Project. The Project and the Expanded Project represent the combination of features that, in the opinion of the Port Commission, most closely achieves the Project Objectives, and the Port Commission hereby selects the Project and the Expanded Project, as described in FEIR Project Description.

a. The fundamental objective for the Project and the Expanded Project is to construct a new home for the Exploratorium that provides ample space to accommodate substantial growth in its exhibit, education, and research programs, as well as administrative space and functions, in a single facility. To meet this general objective, the Exploratorium also has identified the following specific Project Objectives.

b. To secure a location for the Exploratorium that offers initial space for an approximately 200,000-gsf museum facility that requires approximately half of this space to have the characteristics necessary for museum exhibit space (including appropriately tall floor heights and contiguous open plan floor space) and that also offers an additional approximately 100,000 gsf of connected space with similar characteristics to accommodate the museum's future growth: *Met by providing the required initial space (approximately 240,226 gsf) under the Project plus expansion space of about 80,615 gsf under the Expanded Project, for a total of about 320,841 gsf.*

c. To construct a facility that can accommodate, at a minimum, approximately 10,000 gsf of classroom space and a similar amount of laboratory space appropriate for youth and adult education use as well as an approximately 5,000 gsf theater/lecture hall: *Met by providing approximately 10,915 gsf of classroom space, 8,495 gsf of laboratory space with the Project and 9,400 gsf with the Expanded Project, for a total of about 17,895 gsf of laboratory space, and an approximately 4,250 gsf theater space. The Project also includes event space that can be used for lectures.*

d. To maximize operational efficiencies and shared services by integrating administrative and support functions—including a minimum of about 10,000 gsf of fabrication space, a minimum of about 25,000 gsf of administrative office space, and a minimum of about 3,000 gsf of "back of house" space—into the same facility used by the museum's public spaces and programs: *Met by integrating approximately 9,550 gsf of fabrication space, 22,610 sf of administrative office space with the Project and 8,400 sf with the Expanded Project, for a total of about 31,010 sf of administrative office space, and about 3,825 sf of back of house space into the same facility used by the museum's public spaces and programs.*

e. To provide an expanded Webcast studio compared to the Exploratorium's current facility and to provide state-of-the-art telecommunications and data network infrastructure that would allow the Exploratorium to offer more programming to, and connection with, the global scientific and educational community:

Met by providing a Webcast studio that is 25% larger than the Exploratorium's current facility within the Pier 15 exhibit space that would take advantage of the advanced telecommunications and data network being built throughout Pier 15.

f. To design the museum facility to include space for revenue-generating facilities whenever feasible and consistent with other objectives, including but not necessarily limited to a multi-purpose rental event space with a minimum of approximately 10,000 gsf, a museum café of at least approximately 5,000 sf, and a museum retail store of a size that is comparable or larger than retail stores in other major museums with similar annual attendance: *Met by incorporating an approximately 4,850 gsf event space, a museum restaurant/café of approximately 13,500 gsf with the Project and 3,000 gsf with the Expanded Project, for a total of about 16,500 gsf, and a retail space of approximately 5,850 gsf. Although the event space is reduced from the size originally envisioned, other parts of the adjacent museum floor area could be used to supplement the event space as necessary.*

g. To appeal to potential donors and allow flexibility in potential funding sources: *Met by providing a range of attractive space under both the Project and the Expanded Project to facilitate the Exploratorium's mission. Expanded space to grow program elements such as the Center for Learning and Teaching, the Center for Museum Partnerships, life sciences, and technology exhibits provide an opportunity to attract a greater variety of grants and private donations.*

h. To locate the Exploratorium on a site that is highly visible and close to other San Francisco attractions and landmarks to draw from existing and regular foot traffic and to ensure an active and safe environment for both daytime and nighttime operations: *Met by location on The Embarcadero at a prime location about one quarter mile north of the Ferry Building, one half mile south of Pier 39, and across from the Embarcadero Center, a popular waterfront destination area for travelers, that is also well frequented by local residents and businesspeople. The location of the Project at Piers 15/17 ensures a safe environment due to the presence of many other active adjacent uses and prominent entrance along The Embarcadero.*

i. To utilize a location on the San Francisco Bay adjacent to the water in order to provide for education about the science of the San Francisco Bay and other natural forces present on the waterfront that offers opportunities for water-based education: *Met by location on San Francisco Bay adjacent to the water, allowing the opportunity for water-based education, including through water-based exhibits.*

j. To utilize a location that offers an opportunity for at least approximately 20,000 sf of outdoor space adjacent to the museum and water suitable for installation of an "Outdoor Exploratorium:" *Met by providing approximately 20,000 sf of outdoor space*

(constructed in the initial and expanded phases of construction) adjacent to the museum and water for the Outdoor Exploratorium.

k. To locate the Exploratorium on a site that has the transportation infrastructure to serve the Exploratorium's initial estimated attendance of at least 800,000 visitors annually, including close proximity to ample and varied public transportation sources (local and regional), short walking distance to major transportation hubs, and where adequate parking can be provided close to the museum: *Met by close proximity to ample and varied local and regional transportation sources with sufficient capacity to serve the Project and the Expanded Project, as further described on FEIR pages III.E-7-III.E-14, and available parking, as follows:*

- *Local transit service - the San Francisco Municipal Railway ("Muni");*
- *East Bay - Bay Area Rapid Transit ("BART"), Alameda County Transit (AC Transit), and ferries;*
- *South Bay/Peninsula - BART, SamTrans, and Caltrain;*
- *North Bay - Golden Gate Transit buses and ferries;*
- *200 parking spaces at Port-owned locations across from Pier 17 on The Embarcadero (at Green Street) would be licensed to Exploratorium for 16 years under the proposed Parking Agreement (see FEIR page II-22); and*
- *Surplus of available parking at other nearby facilities for all time periods evaluated in the FEIR.*

l. To locate the Exploratorium on a site that can accommodate bus and passenger vehicle loading facilities that are safe and convenient, including for use by children and the disabled: *Met by:*

- *Bus, freight, and passenger vehicle loading facilities described on FEIR pages II-22-II-25, including a new curb indent spaces in front of Pier 15 for short-term drop-off/pick-up and valet parking and expansion of an existing curb indent that begins just north of Pier 17 as drop-off space for school field trips and special event bus activities. School buses transporting disabled passengers will be equipped with equipment to safely lower passengers to the sidewalk level, and the Project will include a ramp adjacent to the curb to comply with Americans with Disabilities Act requirements.*

- *The bicycle safety discussion on FEIR pages II-24-II-24a describes measures to ensure safety of bicyclists as a result of the interaction of bicyclists and vehicles using the curbside loading facilities.*

- *The FEIR describes in greater detail how the operations would work, including through the use of a transportation monitor to maintain the flow of bus arrivals and departures, and designated staging areas, including for school children. The FEIR concludes that no potentially hazardous conditions or significant delays affecting traffic, transit, bicyclists or*

pedestrians will result from the Project or the Expanded Project.

m. To locate the Exploratorium on a site where any necessary seismic upgrades, environmental remediation, or similar site constraints would not make construction and operation of the planned facility economically infeasible for the Exploratorium: *Met by the Exploratorium's extensive due diligence during the exclusive negotiating period to confirm that no previously unknown site conditions would make construction and operation of the planned facility economically infeasible.*

3. The FEIR identified potential significant Project and Expanded Project impacts in the areas of cultural resources, noise, air quality, and biological resources, and proposed mitigation measures that will mitigate all identified significant impacts to a less-than-significant level ("Mitigation Measures"), which are set forth in Attachment 14 to the staff report exactly as proposed in the FEIR at pages S-12-S-25 and incorporated in this Resolution by reference. The FEIR identified potential less-than-significant aesthetic (visual character and view from public areas and light and glare), transportation, land use (land use character and plan consistency), and construction and operational noise and air quality impacts of the Project and Expanded Project. The Initial Study also identified potential less-than-significant effects of the Project and Expanded Project. These and other less-than-significant impacts include land use (physical division of an established community or impact on existing character); visual quality (scenic vistas and scenic resources); population and housing; wind and shadow; recreation; utilities and service systems; public services; geology and soils; hazards and hazardous materials; mineral and energy resources; and agricultural resources. Mitigation is not required for less-than-significant impacts.

   CEQA requires agencies to adopt mitigation measures that would avoid or substantially lessen a project's identified significant impacts or potential significant impacts if such measures are feasible. Upon the Port Commission's adoption of the Mitigation Measures and implementation of the Mitigation Monitoring and Reporting Program ("MMRP"), the Project and the Expanded Project will have no significant adverse environmental impacts. Responsibility for implementation and monitoring the Mitigation Measures is established in the MMRP also set forth in Attachment 14 to the staff report and incorporated in this Resolution by reference.

4. In approving the Project and the Expanded Project, the Port Commission has carefully considered the attributes and environmental effects of the Project and the Expanded Project and the Alternatives summarized below. The Project and the Expanded Project represent the combination of features that, in the Port Commission's opinion, most closely achieves the Project Objectives, and the Port Commission hereby selects the Project and the Expanded Project, subject to mitigation.

   In addition to analyzing the impacts associated with the Project and the Expanded Project, the FEIR assessed alternatives to the Project and Expanded Project, described below and in the FEIR at pages V-I-V-20

("Alternatives"), including the "No Project" Alternative required by CEQA, which primarily focused on reducing or eliminating proposed improvements to lessen the non-significant environmental effects. In addition to the No Project Alternative, the FEIR considered two other Alternatives because of their potential to feasibly attain most of the basic objectives of the Project and the Expanded Project while avoiding or lessening the environmental impacts of the Project and the Expanded Project. Exploratorium considered and rejected alternative locations in San Francisco, identified in the FEIR at page V-1, because the Project and the Expanded Project could not be constructed in any of those locations feasibly and consistent with the Project Sponsor's objectives.

Although CEQA does not require formal rejection of the Alternatives because the Project and Expanded Project, as mitigated, will have no significant adverse environmental impacts, after careful consideration, the Port Commission rejects the Alternatives as infeasible for the specific economic, legal, social, technological, environmental, or other considerations summarized below (in italics).

a. Alternative A. Alternative A, the No Project Alternative, is described at FEIR pages V-4-V-5. Alternative A would entail no physical land use changes at the Project Site. Piers 15/17 would not be converted, no rehabilitation work would be completed, and the Exploratorium would not move from its current location at the Palace of Fine Arts.

   Alternative A would not meet any of the Project Objectives. The Exploratorium has outgrown its current location, and its fundamental objective for the Project and the Expanded Project is to construct a new home that provides ample space to accommodate substantial growth in its programs, as well as administrative space and functions, in a single facility.

   The No Project Alternative would be environmentally superior as compared to the Project and the Expanded Project in the near term because Alternative A would not result in any significant impacts at the Project Site or vicinity, but the Port Commission rejects it because it would not meet any of the Project Objectives or result in the rehabilitation and restoration of historic resources.

b. Alternative B. Alternative B, the Plan Consistent/Reduced Program Alternative, is described at FEIR pages V-5-V-11. Alternative B would be consistent with the Port's Waterfront Land Use Plan, including the Design and Access Element ("Waterfront Plan"), and the Bay Conservation and Development Commission's ("BCDC") Special Area Plan ("SAP").

   Alternative B would not include any connection over the Bay between Piers 15 and 17 because the entire Valley would be demolished. The freestanding shack and Connector Building would

be completely removed, and no new Bridge Building would be built. The historic shed additions would be removed, and the north façade of Pier 15 and the south façade of Pier 17 would be restored to their pre-1950s conditions. Baydelta Maritime would remain at the Project Site with the potential to be relocated from the south apron of Pier 15 to the north apron of Pier 17. If Baydelta Maritime were relocated to Pier 17, dredging would be required between Piers 17 and 19. Pier aprons and supporting structures would be rehabilitated, requiring construction efforts similar to what is proposed under the Project and Expanded Project. New public access would be provided on the pier aprons with access prohibited on the apron where Baydelta Maritime would operate, either at Pier 15 or Pier 17.

The *environmental characteristics of Alternative B would be generally as described in the Project Setting section of the FEIR, pages II-6-II-8. None of the Project and the Expanded Project's less-than-significant (with mitigation) potential impacts identified in the Environmental Setting and Impacts or Other CEQA Considerations sections of the FEIR, pages III.A-1-III.I-38 and IV-1-IV-3, or in the Initial Study (Appendix A to the FEIR) would occur, and no Mitigation Measures would be required.*

Table *V-1 of the FEIR at pages V-2-V-3 compares the significant effects of the Project and Expanded Project and Alternative B. Alternative B would reduce potential impacts to historic resources because non-historic structures would be removed, and the Bridge Building would not be constructed. The second phase of Alternative B would result in similar significant but mitigable historic resources impacts to Pier 17 as identified for the Expanded Project. Archaeological impacts would be less-than-significant with mitigation as under the Project and Expanded Project.*

No significant transportation impacts were identified for the Project and Expanded Project, and Alternative B would result in fewer vehicle trips to the Pier 15/17 site, resulting in reduced traffic-related air quality and noise effects. Construction-related air quality, noise, and biological impacts for Alternative B would be similar to those identified for the Project and Expanded Project, and recommended Mitigation Measures would be implemented to reduce impacts to less-than-significant levels. The total program space of Alternative B would be reduced because no new Bridge Building would be constructed, the pier sheds would be reduced in size, and less publicly-accessible space would be created, reducing program space.

The program space of Alternative B compared to the Project and Expanded Project would be reduced as follows:

- *Program space included in the initial occupation of Pier 15 would be reduced by approximately 38,300 gsf because the new Bridge Building would not be constructed, and the Pier 15 non-historic shed additions would be removed. Program space under the expansion into Pier 17 would be reduced by 25,200 gsf because the non-historic shed addition would be removed.*

- *The Exploratorium would have no outdoor exhibit space. The 16-foot-wide aprons would be publicly-accessible, but approximately 20,000 gsf of outdoor program space would be lost.*

- *Publicly-accessible space would be limited to the north apron of Pier 15 and the south apron loading dock of Pier 17. Approximately 30,000 gsf of publicly-accessible space would not be created because the courtyard would not be constructed. If Baydelta Maritime did not relocate to Pier 17, less public space would be available because public access to the south apron of Pier 15 would be prohibited.*

Alternative B would only partially satisfy certain Project Objectives and would not satisfy the Project Objectives that relate to visitorship and program space.

Alternative B would limit the Exploratorium's ability to meet the Project Objective to secure a 200,000 gsf museum facility that requires approximately half of this space to have the characteristics necessary for museum exhibit space, with an additional approximately 100,000 gsf of connected space with similar characteristics to accommodate the museum's future growth. Compared to the Project and Expanded Project, total museum space would be reduced approximately 65,000 gsf, a reduction of approximately 35,000 gsf within Pier 15 because the Bridge Building would not be built, and approximately 30,000 gsf within Pier 17.

Alternative B would limit the Exploratorium's ability to meet the Project Objective to provide a multi-purpose rental event space with a minimum of approximately 10,000 gsf and museum café of at least approximately 5,000 sf. Alternative B would not include construction of the Bridge Building intended to include space for revenue-generating facilities such as a multi-purpose rental event space and café.

Alternative B would limit the Exploratorium's ability to meet the Project Objective to utilize a location that offers an opportunity for at least approximately 20,000 sf of outdoor space adjacent to the museum and water suitable for installation of an "Outdoor

Exploratorium." The Plan Consistent/Reduced Program Alternative would not include an Exploratorium-only outdoor area, substantially reducing the amount of publicly-accessible outdoor space.

The FEIR identifies the Plan Consistent/Reduced Program Alternative as environmentally superior to the Project and Expanded Project, but it would result in substantially similar impacts. Further, Alternative B provides no environmental advantage over the Project and Expanded Project because with the adoption of all Mitigation Measures and the MMRP as proposed, Alternative B and the Project and the Expanded Project would both result in no significant unmitigated impacts. The Port Commission rejects Alternative B because it would limit the Exploratorium's ability to meet the Project Objectives without providing any significant environmental advantages.

c. Alternative C. Alternative C, the Pier 70 Alternative described on FEIR pages V-11-V-20, would relocate the proposed Exploratorium program to an alternative site. Alternative C was included to ensure that the FEIR included a reasonable range of Alternatives, and to analyze the feasibility of locating the Exploratorium's program at the waterfront location other than the Project Site that Port staff and Exploratorium believe would be most likely to meet the Project Objectives identified in the FEIR. The Pier 70 Alternative would relocate the proposed Exploratorium program to Pier 70, an approximately 65-acre Port-owned site, located on San Francisco's Central Waterfront generally between 18th and 22nd Streets, east of Illinois Street, with 30 buildings of varying sizes, ages, uses, and quality. The site would be accessed from 20th Street.

The Pier 70 Alternative would result in some impacts similar to the Project and Expanded Project. The alternative location and upland setting would avoid some impacts and result in different impacts compared to the Project and Expanded Project. Table V-1, FEIR pages V-2-V-3, presents a comparison of significant effects of the Project and Expanded Project and Alternative C. The Pier 70 Alternative could result in potentially-significant adverse impacts to structures in Block 4 of the site as historic resources. Archaeological impacts would be less-than-significant with mitigation as under the Project and Expanded Project.

The Pier 70 Alternative could result in transportation impacts that would not occur under the Project and Expanded Project. New trips along 3rd Street utilizing the intersection of 3rd Street and Cesar Chavez Street could represent a considerable contribution to a significant cumulative impact. Alternative C is not likely to result in significant transportation-related noise or air quality impacts compared to the Project and Expanded Project.

Construction-related air quality and biological impacts for Alternative C would be similar to those identified for the Project and Expanded Project, and recommended Mitigation Measures would be implemented to reduce impacts to less-than-significant levels. Since pile driving likely will not be required, the Pier 70 Alternative would result in less-than-significant noise impacts from pile-driving activities. Dredging and pile-driving activities within the Bay would not occur, and all impacts to aquatic species identified for the Project and Expanded Project would be avoided.

Alternative C would limit the Exploratorium's ability to meet several of the Project Objectives.

The Pier 70 Alternative would limit the Exploratorium's ability to meet the Project Objective to secure a 200,000 gsf museum facility and to secure a site that has approximately 100,000 gsf of additional space to accommodate future growth of museum space. The existing buildings at the Pier 70 site consist of approximately 157,922 gsf and could be expanded to approximately 222,964 gsf. While the total area building could accommodate the museum space contemplated under the Project, it would not allow for museum expansion contemplated by the Expanded Project. The total developable area available at the Pier 70 site would be approximately 77,000 gsf less than the Project Objectives for program space.

The Pier 70 site would limit the Exploratorium's ability to locate on a site that is highly visible and close to other San Francisco attractions and landmarks to draw from existing and regular foot traffic and to ensure an active environment for both daytime and nighttime operations. The Pier 70 Alternative would not be in a highly visible location and is not close to other San Francisco attractions and landmarks compared to the location of the Project and Expanded Project.

The existing Muni T-Third Street, 22-Fillmore, and 48-Mission-Van Ness lines would all serve the Pier 70 site, but these lines would not meet the Project Objectives of locating in close proximity to many varied public transportation sources with sufficient capacity to accommodate the Exploratorium's expected local and regional visitorship.

The Port Commission rejects the Pier 70 Alternative because it would limit the Exploratorium's ability to meet several of the Project Objectives without providing any significant environmental advantages.

5. The Exploratorium filed an application with the Planning Department for environmental evaluation of the Relocation Project on August 30, 2006. The Planning Department, acting by through its staff and the Planning Commission, then undertook the following actions in accordance with CEQA, the CEQA Guidelines, and Chapter 31, before the FEIR was certified:

    a. The Planning Department conducted an initial evaluation to determine whether the Relocation Project might have a significant impact on the environment and determined that an environmental impact report ("EIR") was required. The Planning Department published a notice of its determination in a newspaper of general circulation on January 5, 2008.

    b. On January 28, 2009, the Planning Department published the DEIR, posted the DEIR on its website, mailed a copy to those on its DEIR distribution list, published notice of the availability of the DEIR for review and comment and of the time and date for the Planning Commission's public hearing on the DEIR in a newspaper of general circulation, and provided copies of this notice to property owners within a 300-foot radius of the Project Site and to its DEIR notice list.

    c. The Planning Commission held the noticed public hearing on March 5, 2009, to hear public comments to the DEIR, and continued to accept written comments until the 45-day public review period ended on March 16, 2009. The Planning Department published a Comments and Responses document revising the text of the DEIR in response to all questions and comments on environmental issues received at the March 5, 2009 public hearing and to all written comments received during the public review period, or based on additional information that became available during the public review period, and correcting errors. The Variant was incorporated in the Comments and Responses document, and analyzed throughout under relevant environmental topics. The Planning Department distributed the Comments and Responses document to the Planning Commissions and all parties commenting on the DEIR, and made the document available on the department's website or upon request.

    d. The Planning Department prepared the FEIR, consisting of the DEIR, all consultations and comments received during the public review process, the Comments and Responses document, and any additional information that became available.

    e. At its public hearing on July 9, 2009, the Planning Commission reviewed and considered the FEIR and found that no new information of significance had become available that would require the EIR to be recirculated under CEQA Guidelines section 15088.5, that the Final EIR reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, and that the Comments and Responses document did not contain significant revisions to the DEIR.

6. The Planning Department fulfilled all procedural requirements of CEQA, the CEQA Guidelines and Chapter 31 and is the custodian of records for the FEIR. The public hearing transcript, a copy of all letters regarding the FEIR received during the public review period, the administrative record, and background documentation for the FEIR are located in File No. 2006.1073.E at the Planning Department, 1650 Mission Street, Fourth Floor, San Francisco, attention: Viktoriya Wise.

7. As of the date of this Resolution, no one has appealed the Planning Commission's certification of the FEIR; and

WHEREAS, the Port Commission has reviewed and considered the information contained in the FEIR, all written and oral information provided by the Planning Department, the public, relevant public agencies, the administrative files for the Relocation Project and the FEIR, the proposed findings in this Resolution ("CEQA Findings"), the proposed Mitigation Measures, and the MMRP, all of which have been made available for review by the Port Commission and the public, and those files are part of the record before the Port Commission; now therefore, be it

RESOLVED, the Port Commission, having reviewed and considered the FEIR, finds that: (1) the FEIR reflects the Planning Department's independent judgment and analysis and is adequate, accurate, and objective; and (2) the Project and the Expanded Project, as mitigated by the Mitigation Measures and in accordance with the MMRP, will have no significant unavoidable impacts on the environment, and hereby adopts the CEQA Findings in accordance with CEQA Section 21081; and be it further

RESOLVED, that the Port Commission finds that: (1) implementation of the Mitigation Measures will eliminate or substantially lessen all significant effects of the Project and Expanded Project on the environment to less-than-significant levels; and (2) all of the Mitigation Measures are feasible, and hereby adopts all Mitigation Measures without modification; and be it further

RESOLVED, that the Port Commission finds that the purpose of the MMRP is to determine the stage at which each of the adopted Mitigation Measures must be imposed in order to ensure that the measure is carried out by the responsible official or entity, or, if the obligation lies with the Exploratorium, that the Port or other appropriate City entity enforces the obligation, and hereby adopts the MMRP as required by CEQA Section 21081.6.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of September 8, 2009.

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Secretary

PORT COMMISSION
CITY & COUNTY OF SAN FRANCISCO

RESOLUTION NO. 09-47

WHEREAS, Charter Section B3.581 grants the Port Commission the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, The Port of San Francisco Waterfront Land Use Plan, including the Design and Access Element (collectively, the "Waterfront Plan") is the Port's adopted land use document for property within Port jurisdiction, which provides the policy foundation for waterfront development and improvement projects; and

WHEREAS, After a multi-year cooperative process, the Commission and the Bay Conservation and Development Commission ("BCDC") adopted amendments to BCDC's San Francisco Bay Plan and BCDC's San Francisco Waterfront Special Area Plan ("Special Area Plan") in August 2000, which allowed for the redevelopment of certain piers for uses consistent with the public trust; and

WHEREAS, In 2001, through AB 1389, the State legislature ratified the Special Area Plan as necessary to the health, safety and welfare of the public in the entire Bay Area, and declared that the Special Area Plan should provide for, among other things, a historic preservation mechanism to ensure preservation of important historic resources on the piers, and the ability of the Port of San Francisco ("Port") to repair, improve, or use the piers not designated for removal between Pier 35 and China Basin for any purpose consistent with the Burton Act, the public trust and the Special Area Plan; and

WHEREAS, The Special Area Plan contains policies to allow for the repair and rehabilitation of existing piers, pier sheds, bulkheads and connector buildings that are listed on the National Register and/or listed as a California Historic Landmark, consistent with the Secretary of the Interior's Standards; and

WHEREAS, The Waterfront Plan includes Pier 15 and Pier 17 within the Northeast Waterfront Area and identifies these piers as "Transitional Maritime Areas;" and

WHEREAS, The Special Area Plan includes portions of Pier 15 and Pier 17 as Piers Designated for Removal, and sets forth criteria designed to encourage historic preservation and increased public access, including creation of a continuous PortWalk and a Bayside History Walk; and

WHEREAS, A primary objective in the Waterfront Plan for the Northeast Waterfront Area is to maximize opportunities for the retention of maritime operations, which objective is summarized in the Waterfront Plan as follows:

"The Plan seeks to maximize opportunities for retaining maritime operations in this area. The Plan therefore protects existing cargo-related operations at Piers 15, 17 and 19-23, but recognizes that the likely consolidation of these operations in the southern waterfront will open these piers to other maritime businesses such as excursion boats, historic ship berthing, and recreational boating and water use." (Waterfront Plan, Executive Summary, p.10.); and

WHEREAS, The Waterfront Plan for the Northeast Waterfront Area also states:

"It is likely that the remaining cargo activities in the Northeast Waterfront will eventually follow the path of the vast majority of the Port's cargo-related operations by relocating to the southern waterfront. However, other non-cargo maritime activities should thrive in the heavily traveled Northeast Waterfront, through the expansion and improvement of excursion boats, water taxi operations, recreational boating, berthing of pilot boats, tugboats and historic ships, and passenger cruises. Unlike cargo operations, these commercial- and recreation-oriented maritime activities are compatible with waterside public access improvements, and would therefore be enjoyed by all people of the City and State." (Waterfront Plan, Northeast Waterfront Area, p. 104); and

WHEREAS, The Waterfront Plan for the Northeast Waterfront Area includes as another objective, to activate this area with an array of uses which establish a daytime and nighttime presence, but are not primarily tourist-oriented, which objective is summarized in the Waterfront Plan as follows:

"Another important objective is to activate this area with an array of day and nighttime uses which will appeal to San Franciscans and visitors alike. The Plan proposes numerous commercial and public uses that could be combined with new commercial and recreational maritime activities to enliven and increase public enjoyment in the area." (Waterfront Plan, Executive Summary, p.10.); and

WHEREAS, The Waterfront Plan for the Northeast Waterfront Area also states:

"New activities in the Northeast Waterfront should build upon the varied land use pattern in the surrounding area, extending the urban edge of the City to the waterfront. The mix of activities should reflect the City's cultural diversity, and appeal to the local and regional population, thereby providing entertainment and commercial recreation venues distinctly different from the more tourist-oriented activities in Fisherman's

Wharf…The mix of uses found in inland locations highlights the need for people-oriented activities on surplus piers…Further north, a few restaurants and bars such as the Pier 23 Cafe provide limited commercial services to passersby. These commercial activities, which have co-existed with neighboring maritime operations, should be expanded wherever possible… Many of the piers not in exclusive cargo-related use should accommodate activities which integrate new public access with existing and expanded maritime operation." (Waterfront Plan, Northeast Waterfront Area, p. 104); and

WHEREAS, The Waterfront Plan for the Northeast Waterfront Area includes as another objective, to protect and enhance the historic maritime character of the area, stated as follows:

"New development in the Northeast Waterfront should be sensitive to the rich maritime history that is preserved in the Northeast Waterfront Historic District, the ribbon of pier head and bulkhead buildings along The Embarcadero, and the remaining maritime activities on many of the piers. This should be accomplished by including the historic piers and structures in a National Register Historic District to be nominated by the Port. On those piers surplus to industrial maritime needs, other maritime activities should be integrated with commercial recreation activities, with building and site designs which balance the need for new activities with the area's historic maritime character."
(Waterfront Plan, Northeast Waterfront Area, p. 106); and

WHEREAS, The Waterfront Plan for the Northeast Waterfront Area includes as another objective, for new development to highlight the location of the area as a gateway to the North Beach and Chinatown neighborhoods to the west, and Fisherman's Wharf to the north, stated as follows:

"The Northeast Waterfront is located at the crossroads between the City's downtown district, North Beach and Chinatown neighborhoods, and Fisherman's Wharf. These areas rely heavily on The Embarcadero as a main point of access by visitors and residents alike, particularly since the demolition of the Embarcadero Freeway. New development along The Embarcadero, particularly near Broadway and Bay Streets, should be designed to provide an orientation point for entrance into these nearby districts."
(Waterfront Plan, Northeast Waterfront Area, p. 106); and

WHEREAS, The Waterfront Plan for the Northeast Waterfront Area includes as another objective, to provide new public access amenities which highlight newly created points of interest, stated as follows:

"…There is a need to expand public access onto the piers themselves, including places for people to relax and enjoy the views, and experience the water's edge…The PortWalk should link the pier perimeters, offering

pedestrians the pleasure of strolling leisurely from one activity to another, and connecting with the Waterfront Transportation Projects pedestrian improvements and the Pier 7 public access pier. The PortWalk would provide a new way for the public to enjoy the sights and sounds of the waterfront while allowing, but not requiring, interaction with the various entertainment and other activities which would be offered along the way."
(Waterfront Plan, Northeast Waterfront Area, p. 106); and

WHEREAS, The Waterfront Plan for the Northeast Waterfront Area includes the following Development Standards for Transitional Maritime Areas (Piers 15, 17, 19-23):

• *Operate Piers 15-17 as a cargo-support warehouse facility as long as necessary, unless it is possible to relocate this operation to alternate upland locations, or to maritime areas in the southern waterfront.*
• *Continue tug and tow berthing and repair operations on Piers 15-17 or other piers in the Northeast Waterfront as long as possible and practical.*
• *Permit accessory, non-maritime commercial uses or community facilities in pierhead, bulkhead or incidental buildings fronting on the east side of The Embarcadero, if the space is not needed for maritime-related operations.*
• *Pursuant to the General Policies of Chapter 3, conduct a review process to determine whether the Transitional Maritime Areas are no longer necessary for cargo shipping related uses, and pursue a mix of activities that achieve the following:*

a *Provide publicly-oriented commercial recreation uses such as family-oriented entertainment, incorporating cultural, educational or other themes that appeal particularly to residents of the City and the Bay Area.*

b *Include commercial and recreation maritime activities such as historic ships, excursion boats, or cruise operations as an integral part of the mix of uses, to the maximum feasible extent.*

c *Arrange and design uses on the piers to maximize public appreciation and enjoyment of the waterfront setting by offering new viewing opportunities, promoting waterborne transportation services, and including an integrated public access program.*

d *Provide varied public access improvements such as a PortWalk which organizes circulation on the pier, provides access along the pier perimeter to the maximum possible extent, incorporates plazas in which people can congregate, and includes landscaping and other treatments which enhance the aesthetic quality of public access features.*

e *Remove a portion of the Pier 23 shed bayward of the connector building to create a Northeast Wharf Open Water Basin, and the valley between Piers 15 and 17, to expand bay views.*

• *Ensure that the exterior architectural and design aspects of the new pier activities are sensitive to and enhance the rich historic industrial maritime character embodied in significant Port structures along The Embarcadero and the adjacent Northeast Waterfront Historic District.*

• *Promote public transit as a primary mode of transportation and maximize the efficient use of new and existing parking facilities while minimizing adverse impacts on public access.*

WHEREAS, In order to further implement the objectives of the Waterfront Plan for the Northeast Waterfront Area, the Port Commission wishes to preserve and restore Pier 15 (and, if the Exploratorium so elects, Pier 17) pursuant to the objectives, development standards and design criteria set forth in the Waterfront Plan; and

WHEREAS, Since publication of the Waterfront Plan, Pier 15 and Pier 17 have been listed on the National Register of Historic Places as part of the San Francisco Embarcadero National Register Historic District; and

WHEREAS, On June 21, 2005, by Board of Supervisors Resolution No. 477-05, the Exploratorium obtained a waiver from the Board of Supervisors exempting any potential lease of Pier 15, the connector building between Pier 15 and Pier 17, and the Pier 17 marginal wharf from the competitive bidding policy set forth in the City's Administrative Code; and

WHEREAS, In January 2006 Port staff conducted a *Pier 15/17 Exclusive Maritime Use Study* to determine whether Pier 15 and Pier 17, identified in the Waterfront Plan as Transitional Maritime Areas, are no longer suitable for exclusive maritime activities; and

WHEREAS, On January 10, 2006, by Port Commission Resolution No. 06-03, the Commission found that the sheds at Pier 15 and Pier 17 are no longer needed exclusively for maritime use; that the east face berth at Piers 15/17 is not surplus to the maritime needs of the Port; that any redevelopment of the facility must be compatible with the retention of the east face berth for lay berthing; that any redevelopment of Pier 15 and Pier 17 must be compatible with and accommodate a tug and tow operation; and the Commission authorized and directed Port staff to consider non-maritime uses for Pier 15 and Pier 17, consistent with the Waterfront Plan and the findings herein, to develop, repair and lease Pier 15 and Pier 17 and to seek ways to improve waterside access at Pier 15 and Pier 17 for ferries, crew boats or water taxis; and authorized and directed Port staff to conduct a comprehensive review of the market opportunity and land and water needs of maritime-industrial activities; and

WHEREAS, On February 28, 2006, by Port Commission Resolution No. 06-13, the Commission approved the terms of an Exclusive Negotiation Agreement ("ENA") between the Exploratorium and the Port and approved financial terms for the lease of Pier 15 with an option to expand into Pier 17 (the "Original Project"); and

WHEREAS, On July 25, 2006, the Exploratorium obtained from the Board of Supervisors fiscal feasibility findings, pursuant to the Fiscal Feasibility Ordinance (Administrative Code Ch. 29), authorizing environmental review of the Original Project to begin (Resolution No. 446-06); and

WHEREAS, On August 12, 2008, by Port Commission Resolution No. 08-51, the Port and Exploratorium amended the ENA and thereafter entered into an Amended and Restated ENA ("Amended ENA") providing for the lease of both Pier 15 and Pier 17, and incorporating a term sheet reflecting other revised terms ("Exploratorium Project"); and

WHEREAS, On December 9, 2008, by Board of Supervisors Resolution No. 521-08, the Board of Supervisors (1) reaffirmed the fiscal feasibility findings of Board Resolution No. 446-06 and found that the Exploratorium Project was fiscally responsible and feasible, (2) endorsed the terms of the amended term sheet, and (3) exempted the potential lease of Pier 15 and Pier 17 from the competitive bidding policy set forth in the City's Administrative Code; and

WHEREAS, On February 25, 2009, the parties entered into a First Amendment to the Amended ENA extending the term of the Amended ENA to the earlier of the effective date of the Lease Disposition and Development Agreement or February 28, 2010; and

WHEREAS, During the term of the ENA and the Amended ENA, Port staff and the Exploratorium have negotiated the terms of a Lease Disposition and Development Agreement ("Development Agreement") and 66-year Lease and other transaction documents, and have developed Schematic Drawings for the Exploratorium Project which will be consistent with the Waterfront Plan Objectives, the Development Standards and Design Criteria, after adoption of appropriate amendments, applicable to the Northeast Waterfront Area and the Exploratorium Project; and

WHEREAS, Pier 15 and Pier 17 are of great historic importance both for their unique role in San Francisco's maritime history, as well as for their architectural merits; and

WHEREAS, Pier 15 is in critical need of rehabilitation, is "red-tagged" (meaning load-restricted), requires approximately $29 million in substructure repairs alone and will be lost forever if not repaired; and

WHEREAS, During the exclusive negotiations period, Port staff and the Exploratorium negotiated final documents governing the long-term lease of Pier 15 and Pier 17 ("Site") to the Exploratorium and the repair, seismic upgrade and historic rehabilitation of Pier 15, with the possibility of expanding the museum into Pier 17 and subsequent redevelopment of Pier 17 by the Exploratorium. The proposed development will include, among other things: construction of the Exploratorium museum in Pier

15, including cafes, exhibit space, fabrication space, teaching classrooms, a museum store, a multi-purpose room, and administrative offices, removal of a portion of the asphalt deck between Piers 15 and 17 (the "valley"), creation of substantial public access on the Site, removal of the connector building and construction of a new "Observatory Building" in its place, rehabilitation of the Pier 17 north apron, construction of maritime office and warehouse space inside the Pier 17 shed for Baydelta, and construction of a water taxi dock (collectively, the "Exploratorium Project"); and

WHEREAS, The Development Agreement and the Lease present a rare opportunity to preserve an example of maritime architecture with its integrity of location, design, setting, materials, workmanship, and the presence of many of the original architectural features and details; and

WHEREAS, Although historic preservation of Pier 15 adds to the rehabilitation cost, such preservation is called for in the Waterfront Plan and Special Area Plan, and is supported by the Northeast Waterfront Area Plan of the San Francisco General Plan, which in its Urban Design policy calls for preserving older buildings of architectural merit or historical significance, such historic rehabilitation is consistent with the trust under which the lands are held;

WHEREAS, The Port and the Exploratorium are committed to a project that would meet the Secretary of the Interior's Standards for the Treatment of Historic Properties ("Secretary's Standards") and, therefore, be eligible for historic preservation tax credits, consistent with the Waterfront Plan and San Francisco General Plan policies intended to preserve the strong architectural and historic character of this notable historic district; and

WHEREAS, The public open spaces and open water areas included as part of the Exploratorium Project provide ample and unprecedented opportunities for the public to observe, enjoy and appreciate the historic elements of the Pier 15 facility and to enjoy new views of the Bay, including the following:

- *creation of a water lagoon in the valley so that the public can view the water and of new public access with pedestrian bridges, seating areas and outdoor exhibits;*
- *removal of the connector building to create a new view of the Bay from the Embarcadero;*
- *installation of outdoor water-related exhibits in the outdoor ticketed area of the museum that visitors to the Site will be able to see even if they do not purchase tickets;*
- *perimeter public access along the south and east aprons, opening up new views of the Bay, of the East Bay hills, Treasure Island and the Bay Bridge;*

- *a public access way into the lobby of Pier 15 that will be designated as a continuation of the Bayside History Walk which commences at Pier 1, and which will be open for pedestrian public access;*
- *restoration of the Pier 15 bulkhead building that will allow visitors to enter the building from The Embarcadero and access one of several public destinations: the museum store within the bulkhead building, the Bayside History Walk, and the cafe within Pier 15;*
- *use of the Bayside History Walk for display of historic or water-related images, models or interactive exhibits;*
- *use of clear glazing along the Bayside History Walk inside the Pier 15 shed to allow the public to see activities inside the museum and to view the historic trusses and monitor of the facility;*
- *provision of outdoor seating at the east end café to provide an outdoor dining area that will allow the public to experience the Bay and maritime activities associated with the Bay;*
- *design of the proposed PortWalk around the perimeter of the Site to enable the public to view the waterside exterior elevations of Pier 15 and the existing interior structural and finish elements within the building, including visibility of Pier 15's existing trusses and monitor; and*

WHEREAS, The proposed Exploratorium Project offers major public access opportunities, including the following:

- *When complete, the Exploratorium Project will provide approximately 78,000 gsf of new public access at the Site, where currently there is none;*
- *the proposed design maximizes visual cues, physical openings and public-oriented uses to encourage pedestrians to enter the Site in the valley or through the bulkhead building to access the historic structures or to view the Bay;*
- *The Exploratorium will complete a substantial piece of the PortWalk, as called for in the Special Area Plan. The PortWalk will extend around the perimeter of the Site and is differentiated from other pedestrian ways by a change in the concrete pattern;*
- *Significant portions of the valley will be converted to a public access area and water lagoon, with pedestrian bridges, seating areas, and outdoor exhibits, which will enable visitors to see the Bay and pilings, and new Bay views; and*

WHEREAS, The Exploratorium Project will promote important maritime activities, including the following:

- *Navy ships, commercial ships and other types of ships will continue to dock at the east apron berth;*
- *A water taxi dock will be built at the south apron which will provide a landing for a Port-operated water taxi service along the waterfront;*

- *There is additional opportunity for berthing at the south apron if the Exploratorium decides to build docking facilities in the restricted berthing area adjacent to Pier 15;*
- *Baydelta will continue to operate at the Site, in a new facility to be located at Pier 17, and its tugboats will berth at the newly-restored north apron and newly-dredged Pier 17-19 water basin; and*

WHEREAS, The Exploratorium Project will support many opportunities for public enjoyment of the waterfront, an important component of which is realized through a waterfront-oriented café on the first floor of the Observatory Building which will be open to the public without requiring museum admission; a widened south apron at the east end of Pier 15 which will allow opportunities for public gatherings; exhibit space and an event center on the second floor of the Observatory Building which will have clear glazing to provide unobstructed views of the Bay; outdoor exhibits in the public access areas of the valley and in the outdoor ticketed area that will attract visitors to the site; and new public access that will afford views of the Bay and of the historic elements of the buildings; and

WHEREAS, Time is of the essence if efforts to rehabilitate Pier 15 consistent with historic preservation standards is to be accomplished with the least cost burden to public trust resources because any major rehabilitation of the facility has been deferred for many years to such a point that failure to rehabilitate the building in the near future will mean eventual permanent loss of this important historic structure; and

WHEREAS, If the Port is unable to take advantage of private investment to rehabilitate Pier 15, with sufficient economic potential to make its historic rehabilitation feasible, the facility will not be restored and the proposed trust activities will not occur; and

WHEREAS, The Exploratorium is an internationally-recognized museum of science, art and human perception that provides access to education about science, nature, art, human perception and technology to over 500,000 visitors annually, and to millions of people every year through the exhibits it designs for science centers around the world; it provides training for science teachers and science programs for school children; and

WHEREAS, The Exploratorium Project will create a distinctive design and presence on the waterfront that will make the Exploratorium a landmark that will appeal to residents of San Francisco and the Bay Area, as well as to visitors from around the globe;

WHEREAS, Museum use at Piers 15 and 17 promotes the Port's overall program of improvements for the Northeast Waterfront Area, integrating the facility with its spectacular City and Bay settings, by providing an attractive venue and a new point of interest for residents and visitors to the City, with ground level restaurant and retail establishments, a water taxi

landing and a high-quality public access network providing close views of the water and the historic structures; and

WHEREAS, Museum use at Piers 15 and 17 promotes the Port's overall program of improvements for the Northeast Waterfront Area by activating this area with a new use which establishes a daytime and nighttime presence and is not primarily tourist-oriented; and

WHEREAS, The maritime uses proposed for Piers 15 and 17, including tug and tow operations, ship berthing and water taxi service, promote the Port's overall program of improvements for the Northeast Waterfront Area by maximizing opportunity for the retention of maritime operations and protecting and enhancing the historic maritime character of the facilities; and

WHEREAS, The public access proposed for Piers 15 and 17, including the Bayside History Walk, PortWalk, water lagoon and public access areas in the valley, promote the Port's overall program of improvements for the Northeast Waterfront Area by providing new public access amenities which highlight the museum as a newly-created point of interest; and

WHEREAS, The Port Commission must conserve Port revenues to subsidize those maritime uses and public improvements for which private investment is not economic, and therefore the Port cannot directly fund all necessary capital improvements needed to repair historic Port facilities such as Pier 15 (with an estimated development cost of $175 million); and

WHEREAS, The Port Commission has complete authority to do all things it deems necessary in connection with the use, conduct, operation, management, maintenance, regulation, improvement and control of the harbor of San Francisco which are not prohibited by State law or the City Charter and which are in conformance with the Burton Act, including reconstruction and repair of public or commercial buildings, rehabilitation and preservation of historic resources, dedication of public access areas, uses for public purposes, retention of maritime activities and the lease of said facilities for limited periods not exceeding 66 years for purposes consistent with the trust upon which the lands are held by the State and with the requirements of commerce and navigation; and

WHEREAS, The California Supreme Court has upheld the lease of trust lands to private interests to achieve trust purposes; and

WHEREAS, Section 3 of the Burton Act authorizes the Port Commission to enter into 66 year leases provided that the revenues from such leases shall be used for purposes consistent with the trust; and

WHEREAS, The Commission, by its approval of the Development Agreement, Lease and Schematic Drawings, is acting within the scope of the authority

granted by Section 3 of the Burton Act because the Development Agreement, Lease and Schematic Drawings are necessary to accomplish the myriad goals, including promotion and retention of maritime uses, protection and enhancement of the historic maritime character of the area, creation of new public access which highlight newly-created points of interest, promotion of public enjoyment of the waterfront and historic preservation, all in furtherance of the policies and objectives of the Waterfront Plan, which are purposes consistent with the trusts upon which the lands are held by the State, the requirements of commerce and navigation, the Burton Act, the public trust doctrine as established in California case law and attorney general decisions, and are not prohibited by State law or the City Charter; and

WHEREAS, Section 5 of the Burton Act provides that the Commission has authority to use revenues accruing from the use of the transferred lands for the purpose of reconstruction or repair of bulkheads and piers necessary for the development of the transferred lands for highest and best use in the public interest, provided that such purpose complies with the terms of the trust which are matters of statewide as distinguished from local or purely private interest and benefit; and to promote maximum public use of the transferred lands and encourage private investment in development of such transferred lands for the highest and best use in the public interest; and

WHEREAS, The Lease is for a term of 66 years, and revenue from the Lease will be used for such purposes as may be established through the Port and City budget and fiscal process intended to ensure that Harbor Fund revenues are expended for trust purposes as required under the Burton Act; and

WHEREAS, The Commission, by its approval of the Development Agreement and the Lease, acts within the scope of authority granted by Section 5 of the Burton Act, because Port revenues derived from the transferred lands are being used:

(1) to preserve, reconstruct and repair Pier 15 (and possibly Pier 17) which (a) promotes statewide, as distinguished from local or purely private, interest and benefit by preserving and restoring an historically and architecturally significant maritime trust asset as part of an integrated and highly beneficial program of development of the Northeast Waterfront Area intended to promote statewide interests by encouraging waterborne transit, improving navigation in the Harbor and enhancing public use and enjoyment by preserving the historic maritime aesthetic qualities of the Northeast Waterfront Area properties, and (b) is necessary for the development of the Site for use in the public interest, which is a unique mix of public trust uses described herein;

(2) to promote maximum public use of the transferred lands in the Northeast Waterfront Area by: (a) achieving the preservation of historic Pier 15; (b) enhancing the public's enjoyment of the historic

maritime aesthetic of the Northeast Waterfront Area in general and Piers 15 and 17 in particular; (c) creating additional public access through the interior and on the exterior of Pier 15, thereby achieving the Port's design plan for public access and attracting the public to enjoy the views of the Bay and to learn about and appreciate the historic maritime functions; and (d) providing ground floor uses drawing members of the public to enjoy the shoreline; and

(3) to encourage private investment in development of such transferred lands in the public interest by enabling the Exploratorium to fund the approximately $175 million investment required to reconstruct and repair this historic maritime facility for a unique mix of trust purposes; and

WHEREAS, The Waterfront Plan includes policies to remove the valley between Piers 15 and 17, including the connector building and the non-historic additions to the Pier 15 and Pier 17 sheds, and the Exploratorium Project does not provide for removal of the foregoing in its entirety, so therefore the Exploratorium Project, as proposed, is not consistent with the Waterfront Plan; and

WHEREAS, Given the high level of trust-consistent uses within the Exploratorium Project and consistency with the overall goals and objectives of the Waterfront Plan, including creation of extensive public access where none existed, creation of new views of, and access to, the Bay, rehabilitation of important historic resources, and retention and preservation of maritime activities at the Site, the removal of less than all of the fill required to be removed from the Site under the Waterfront Plan is justified; and

WHEREAS, For the reasons stated above, the proposed design of the Exploratorium Project requires amendments to the Waterfront Plan, which should be amended to require less fill removal at the Site; and

WHEREAS, The Exploratorium Project is not consistent with the Special Area Plan because it proposes to remove less fill from the Site than is required to be removed under the Special Area Plan, which requires removal of the valley between Piers 15 and 17, the connector building and the non-historic additions to the Pier 15 and Pier 17 sheds; and

WHEREAS, The Exploratorium has submitted an application to BCDC, which is pending, to amend the Special Area Plan so that the Exploratorium Project will conform thereto, and the Port will require that the Special Area Plan be so amended prior to close of escrow on the Exploratorium Project; and

WHEREAS, The Exploratorium Project responds to the objectives and policies of the San Francisco General Plan as presented in the Exploratorium Relocation Project's FEIR; and

WHEREAS, Port staff and the Exploratorium have negotiated the terms of the Development Agreement and the Lease for the development of the Site as an historic rehabilitation project with a museum, cafes, retail store, classrooms, theater and ancillary office in Pier 15, public access and maritime uses on the Site, including a water taxi dock, the business terms of which are set forth in the memorandum for Agenda Item 9B for the Port Commission meeting of September 8, 2009; and

WHEREAS, As a material part of the negotiated transaction, Port staff, Baydelta, and the Exploratorium have negotiated the terms of a Tripartite Agreement, the business terms of which are set forth in the memorandum for Agenda Item 9B for the Port Commission meeting of September 8, 2009; and

WHEREAS, As a material part of the negotiated transaction, Port staff and Baydelta have negotiated the terms of the New Baydelta Lease, the business terms of which are set forth in the memorandum for Agenda Item 9B for the Port Commission meeting of September 8, 2009; and

WHEREAS, As a material part of the negotiated transaction, Port staff and the San Francisco Municipal Transportation Agency ("SFMTA") have negotiated the terms of a Second Amendment to Memorandum of Understanding ("MOU"), the business terms of which are set forth in the memorandum for Agenda Item 9B for the Port Commission meeting of September 8, 2009; and

WHEREAS, As a material part of the negotiated transaction, Port staff and the Exploratorium have negotiated the terms of a Parking Agreement, the business terms of which are set forth in the memorandum for Agenda Item 9B for the Port Commission meeting of September 8, 2009; and

WHEREAS, As a material part of the negotiated transaction, Port staff and the Exploratorium have negotiated the terms of a License for Curb Indent at Pier 15, the business terms of which are set forth in the memorandum for Agenda Item 9B for the Port Commission meeting of September 8, 2009; and

WHEREAS, As a material part of the negotiated transaction, Port staff and the Exploratorium have negotiated the terms of a License for Curb Indent at Pier 17, the business terms of which are set forth in the memorandum for Agenda Item 9B for the Port Commission meeting of September 8, 2009; and

WHEREAS, As a material part of the negotiated transaction, Port staff and the Exploratorium have negotiated the terms of a License for Curb Space at Green Street, the business terms of which are set forth in the memorandum for Agenda Item 9B for the Port Commission meeting of September 8, 2009; and

WHEREAS, A copy of the proposed Development Agreement and its exhibits, including the Lease and its exhibits, the Parking Agreement, the License for Curb Indent at Pier 15, the License for Curb Indent at Pier 17 and the License for Curb Space at Green Street, are on file with the Commission Secretary; and

WHEREAS, A copy of the proposed Tripartite Agreement and its exhibits, including the New Baydelta Lease and its exhibits, is on file with the Commission Secretary; and

WHEREAS, A copy of the proposed Second Amendment to MOU with the SFMTA is on file with the Commission Secretary; and

WHEREAS, The Exploratorium is required to obtain a Major Permit from BCDC for the Exploratorium Project, and Port, as landowner of the Site, must join the Exploratorium as co-applicant in the filing of the application for a Major Permit from BCDC; and

WHEREAS, The application for a Major Permit from BCDC will be subject to Port's review and approval prior to the filing of the application, and any conditions that may be imposed in granting the BCDC Major Permit will be subject to Port's review and approval; and now, therefore, be it

RESOLVED, That the Port Commission finds that the Exploratorium Project is trust-consistent in that it promotes public trust objectives, including the rehabilitation and preservation of historic resources, dedication of public access areas, uses for public purposes and retention of maritime activities, as described in the Charter, the Burton Act and common law public trust doctrine; and be it further

RESOLVED, Given the high level of trust-consistent uses within the Exploratorium Project and consistency with the overall goals and objectives of the Waterfront Plan, the Port Commission finds that removal of less than all of the fill required to be removed from the Site under the Waterfront Plan is justified and the Waterfront Plan should be amended accordingly; and be it further

RESOLVED, That the Port Commission hereby amends the Waterfront Plan as follows:

4) Page 49A, "Map A"; Page 57A, "Map B"; and Page 109, "Northeast Waterfront Subarea" map: amend graphic in each map as to Piers 15 and 17 so that shading within the valley associated with "Piers Designated for Removal" reflects 37,000 square feet of fill removal.

5) Page 117, Development Standards Policy "e" – amend as follows: "Remove a portion of the Pier 23 shed bayward of the connector building to create a Northeast Wharf Open Water Basin, and <u>approximately</u>

37,000 square feet of the valley between Piers 15 and 17, and create a new view corridor between Piers 15 and 17, all to expand Bay views."

6) Page 179 (third dash) – amend as follows: "Remove approximately 37,000 square feet of the deck and pilings that form the "valley" between Pier 17 and Pier 15 ~~and the non-historic shed additions within 20 years~~."

and be it further

RESOLVED, That the Port Commission hereby amends the Waterfront Plan Design & Access Element as follows:

5) Page 24 - amend subparagraph (F) as follows, "**Pier 15-17 Valley Open Water Area**: Remove approximately 37,000 square feet of the decking and piles between the piers~~, 1950's building additions also to be removed~~."

6) Public Access and Open Space Map, opposite Page 22 – amend graphic as to Piers 15 and 17 so that shading within the valley reflects 37,000 square feet of fill removal. Amend text in Item F to read "Pier 15-17 Valley (partial removal)."

7) Page 82 (last paragraph, second sentence) - amend as follows: ". . . maintain the Open Water Basin between Piers 3 and 9, and remove approximately 37,000 square feet of the "valley" ~~and associated buildings~~ and create a new view corridor between Piers 15 and 17~~added in the 1950's to add an additional Bay view~~."

8) Page 85, Piers 29-15 Design Criteria, Site/Views item, 2nd sentence – amend as follows: ". . . Remove about 315 feet from the east end of the Pier 23 shed, ~~and~~ remove approximately 37,000 square feet of the valley and create a new view corridor between Piers 15 and 17 ~~and the adjoining bays added to the pier sheds in the 1950's, to expand views of the Bay~~."

and be it further

RESOLVED, That the Port Commission approves the form and substance of the Development Agreement and the Lease and the transactions which the Development Agreement and the Lease contemplate, incorporating the business terms set forth in the Memorandum for Agenda Item 9B for the Port Commission meeting on September 8, 2009; and be it further

RESOLVED, That the Port Commission approves the form and substance of the Tripartite Agreement, the New Baydelta Lease with Baydelta, the Second Amendment to MOU with SFMTA, the Parking Agreement, the License for Curb Indent at Pier 15, the License for Curb Indent at Pier 17 and the License for Curb Space at Green Street, and the transactions

which the Tripartite Agreement, the New Baydelta Lease with Baydelta, the Second Amendment to MOU with SFMTA, the Parking Agreement, the License for Curb Indent at Pier 15, the License for Curb Indent at Pier 17 and the License for Curb Space at Green Street contemplate, incorporating the business terms of said documents set forth in the Memorandum for Agenda Item 9B for the Port Commission meeting on September 8, 2009 (collectively, together with the Development Agreement and the Lease, the "Transaction Documents"); and be it further

RESOLVED, That the Port Commission hereby approves the Schematic Drawings of the proposed Exploratorium Project, as shown in the attachment to the Memorandum for Agenda Item 9B for the Port Commission meeting on September 8, 2009, a copy of which is on file with the Port Commission Secretary, and approves the additional drawings recommended for approval by the Waterfront Design Advisory Committee at its meetings through July 6, 2009, and authorizes the Executive Director to approve non-material changes in the Schematic Drawings; and be it further

RESOLVED, That the Port Commission authorizes and directs the Executive Director of the Port (the "Executive Director") to forward the Lease, Parking Agreement, License for Curb Indent at Pier 15, License for Curb Indent at Pier 17 and License for Curb Space at Green Street to the Board of Supervisors for approval, pursuant to its authority under Charter Section 9.118(c), and upon the effectiveness of such approval, to execute the Development Agreement, and subject to the terms of the Development Agreement, to execute the Lease, Parking Agreement, License for Curb Indent at Pier 15, License for Curb Indent at Pier 17 and License for Curb Space at Green Street in substantially the form of such agreements on file with the Commission Secretary, and in such final form as is approved by the Executive Director in consultation with the City Attorney; and be it further

RESOLVED, That the Executive Director shall determine satisfaction of the conditions precedent under the Development Agreement to the conveyance of the leasehold estate in the Site, such determination to be conclusively evidenced by the execution and delivery by the Executive Director of the Lease; and be it further

RESOLVED, That the Port Commission authorizes the Executive Director to enter into any additions, amendments or other modifications to the Transaction Documents (including, without limitation, preparation and attachment of, or changes to, any or all of the exhibits) that the Executive Director, in consultation with the City Attorney, determines are in the best interests of the City, do not materially decrease the benefits or otherwise materially increase the obligations or liabilities of the City or Port, and are necessary or advisable to complete the transactions which the Transaction Documents contemplate and effectuate the purpose and

intent of this resolution, such determination to be conclusively evidenced by the execution and delivery by the Executive Director of such additions, amendments or other modifications to the Transaction Documents; and be it further

RESOLVED, That the Port Commission authorizes the Executive Director to make any additional technical editing revisions to the Waterfront Plan amendments or to the Waterfront Plan Design and Access Element amendments as may be necessary to ensure consistency of the Exploratorium Project with the Waterfront Plan and the Waterfront Plan Design and Access Element; and be it further

RESOLVED, That the Port Commission authorizes the Executive Director and any other appropriate officers, agents or employees of the City to take any and all steps (including, but not limited to, the execution and delivery of any and all certificates, agreements, notices, consents, escrow instructions, closing documents and other instruments or documents) as they or any of them deems necessary or appropriate, in consultation with the City Attorney, in order to consummate the transactions under the Transaction Documents, in accordance with this resolution, or to otherwise effectuate the purpose and intent of this resolution, such determination to be conclusively evidenced by the execution and delivery by any such person or persons of any such documents; and be it further

RESOLVED, That the Port Commission authorizes the Executive Director to sign and file an Application for a Major Permit from BCDC and the authority to represent and bind the Port with respect to the representations and information submitted as part of the application; and be it further

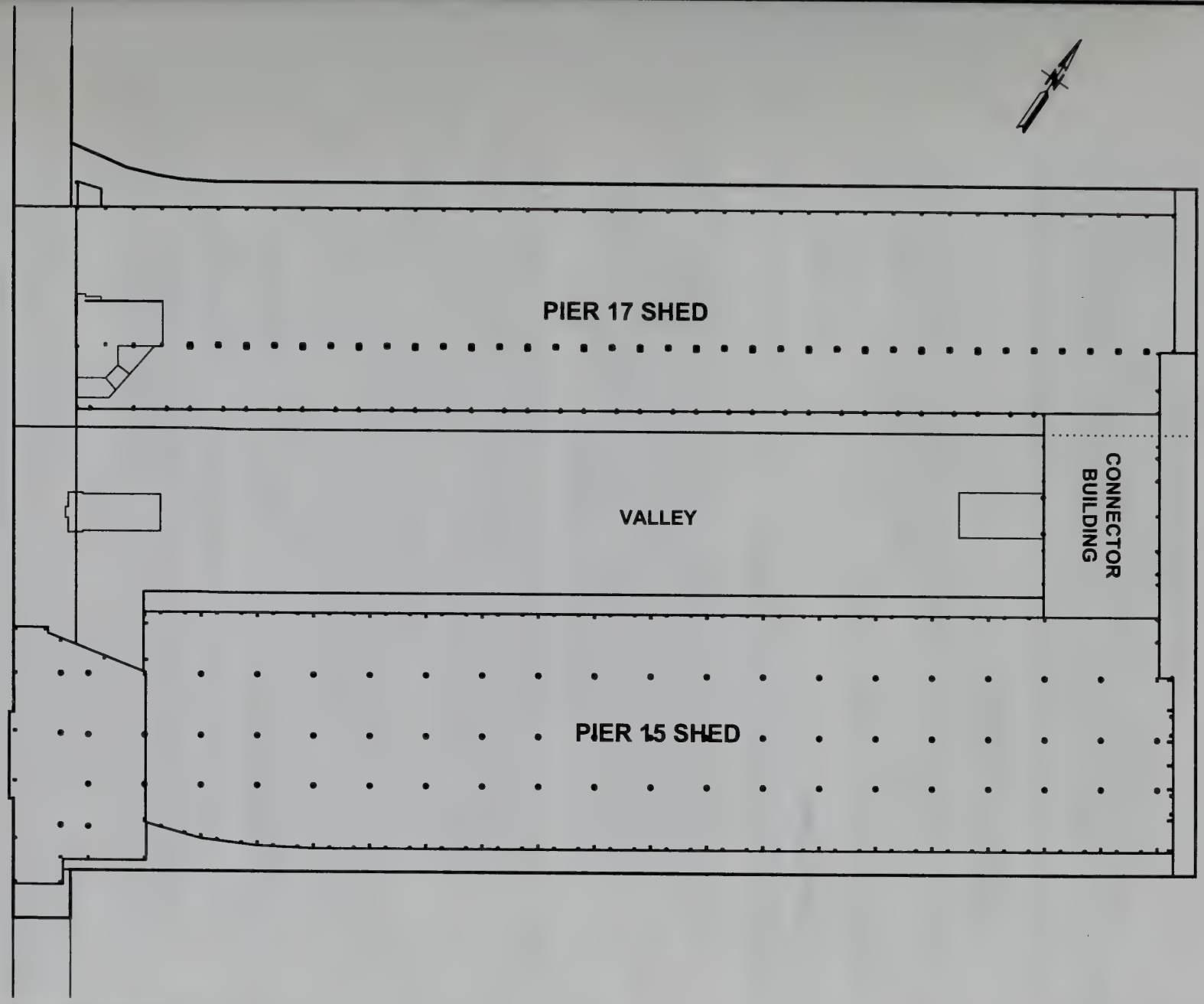
RESOLVED, That the Port Commission approves, confirms and ratifies all prior actions taken by the officials, employees and agents of the Port Commission or the City with respect to the Transaction Documents and related documents.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of September 8, 2009.

_____

Secretary

ATTACHMENT 1



SAN FRANCISCO PORT COMMISSION
PORT OF SAN FRANCISCO
DEPARTMENT OF ENGINEERING

SITE PLAN

DRAWN BY: ECC, AMN	DATE: SEP 1, 2009
CHECKED BY: J. SOBOL	SCALE: 1" = 100'
PLACE CODE NO. 1150/1170	SHEET NO. 1 OF 1 SHEETS

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SCOPE OF DEVELOPMENT[1]

Developer shall construct the Improvements set forth below, in accordance with the Schematic Drawings, and as otherwise required by the Agreement, which shall include the rehabilitation, repair and redevelopment of Pier 15, the Valley and certain areas of Pier 17, and construction of the Observatory Building, as defined below, to accommodate the Museum.

1. Development and Design

The design of the Improvements shall be generally consistent with the existing heights and footprints of the buildings on the Site, which shall not be altered, except that the Connector Building shall be demolished and replaced by the Observatory Building, which shall have a smaller footprint than the Connector Building.

2. Improvements

The Improvements shall consist of the following:

(a) rehabilitation, repair and seismic upgrading of the Substructure (excluding the cross-hatched area on the Site Plan) under the following portions of the Site: (i) Pier 15, including the Pier 15 Loading Dock and the South Apron, (ii) the Pier 15 East Apron, (iii) the Connector Building, (iv) the bulkhead building, (v) the decking, bridges and other features within the Valley, and (vi) the Pier 15 Marginal Wharf, all as shown on **Exhibit A-2**;

(b) rehabilitation, repair and seismic upgrading of the Pier 15 shed and bulkhead building, and construction of new mezzanine areas, exhibit galleries, an exhibit fabrication area, classrooms, administrative offices, a café, a retail store, multipurpose conference room, and the Bayside History Walk providing interior public access and including installation of sufficient fixtures, furnishings and equipment to permit opening of the café and retail store to the public;

(c) rehabilitation, repair and seismic upgrading of the Pier 15 Loading Dock deck, South Apron deck and the Pier 15 East Apron deck; construction of two deck extensions to the South Apron, at the east and west ends, as shown on the Schematic Drawings;

(d) demolition of the Connector Building between Pier 15 and Pier 17 and construction of a new building with a café on the first floor, exhibit/event space on the second floor and a rooftop terrace on the one-story portion ("Observatory Building"), including installation of sufficient fixtures, furnishings and equipment to permit opening of the café to the public;

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[1] All terms used herein shall have the same meanings as provided in the Agreement.

ATTACHMENT 2

(e) removal of a section of the Pier 17 shed at the east end to create an area on the Pier 15 East Apron sufficient for parking of two catering trucks and reconstruction of the south and east walls to match the existing walls and to enclose the Pier 17 shed after removal of the Connector Building;

(f) interior improvements inside the Pier 17 shed to include the following: (i) bicycle racks, showers and clothing lockers for Museum employees, (ii) demising walls for truck access and loading and receiving, (iii) partition walls for storage, shipping and handling areas, (iv) a trash room to accommodate recycling, garbage, trash and composting bins, and (v) a parking area for electric carts, all as shown on the Schematic Drawings;

(g) installation of an electrical transformer and generator, with enclosure, on the South Apron;

(h) demolition of the Pier 17 North Apron office addition at Pier 17 and installation of an electrical transformer and pad in the same general location;

(i) removal of asphalt paving and deck in the Valley and creation of: (i) a water lagoon and a new deck to provide public access consisting of new decking, pedestrian bridges, seismic joints, and patching and repair of edges and beams on the Pier 17 South Loading Dock after adjacent deck demolition; and (ii) new decking comprising an outdoor ticketed exhibit area;

(j) removal and replacement of a portion of the paving and deck from the marginal wharf area adjacent to and south of the bulkhead building in order to repair the interconnecting substructure of the bulkhead building and to create a new deck to tie in the seismic joint of the South Apron deck extension, as shown on the Schematic Drawings;

(k) installation of appropriate Exterior Improvements or other features in the Valley, the South Apron, Pier 15 East Apron and within the newly-created open water areas;

(l) cutting-of piles below the deck if necessary, and cutting of piles below the mudline for removal and above the waterline for patching in the open water areas of the Valley;

(m) installation of guardrails and gates to accommodate public access and ship berthing on the East Apron, in accordance with a railing plan to be approved by Port;

(n) removal of car stops, fencing, meters and other obstructions from the Pier 17 Marginal Wharf to create an assembly area for field trip visitors arriving by bus;

(o) installation and upgrade of electrical, sewer, water and other utilities as necessary and appropriate to accommodate the Museum in Pier 15 and the Valley, to provide sewer and water hook-ups for U.S. Navy Vessels berthing at the East Apron,[2] and to provide the same level of utility services to tenants under Permitted Leases in Pier 17 as said tenants under Permitted Leases have on the Commencement Date of the Lease;

(p) if approved by applicable Regulatory Agencies, installation of a bay water heating and cooling system; and

(q) Signage.

3. Potential Improvements

The following Improvements may be included, at the election of Developer:

(a) installation of photovoltaic panels on the roof of Pier 15;

(b) removal of a portion of asphalt paving in the Pier 15 Marginal Wharf to create an outdoor exhibit;

(c) installation of Museum exhibits; and

(d) installation and upgrade of the gas utility as necessary and appropriate to accommodate the Museum in Pier 15 and the Valley, and to provide the same level of utility services to tenants under Permitted Leases in Pier 17 as said tenants under Permitted Leases have on the Commencement Date of the Lease.

4. Off-Site Improvements

The following off-Site Improvements will be constructed: a new curb indent in front of Pier 15 for passenger drop-off/pick-up and construction of a new curb indent in front of Pier 17 for bus loading/unloading, in accordance with the schematic plan attached to each Curb Indent License and in accordance with specifications set forth in the Curb Indent Licenses.

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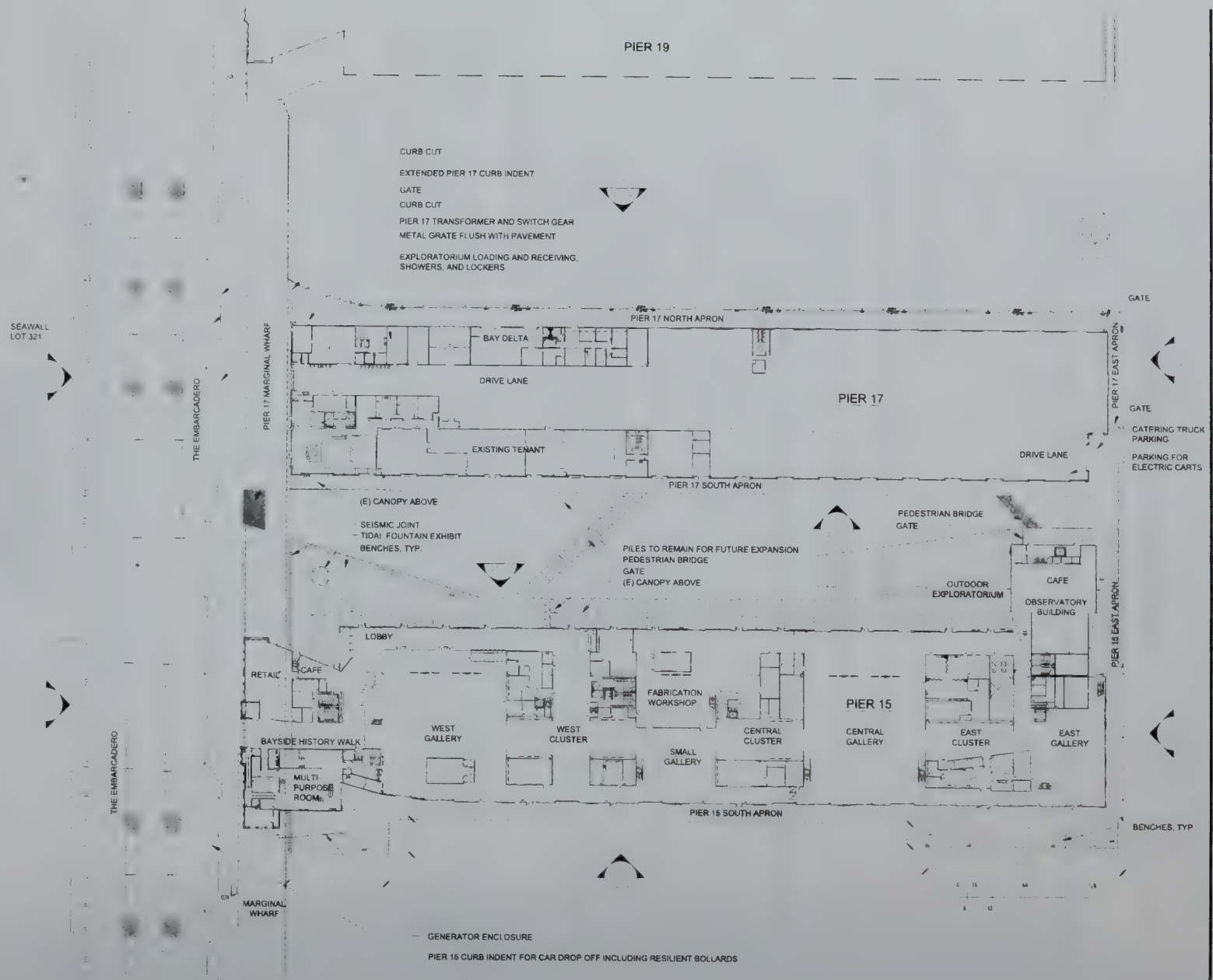
[2] Developer shall construct and install said utility hook-ups for U.S. Navy Vessels only if requested by and paid for by Port.

SCHEMATIC DRAWINGS

ATTACHMENT 3



exploratorium
the museum of science, art and human perception

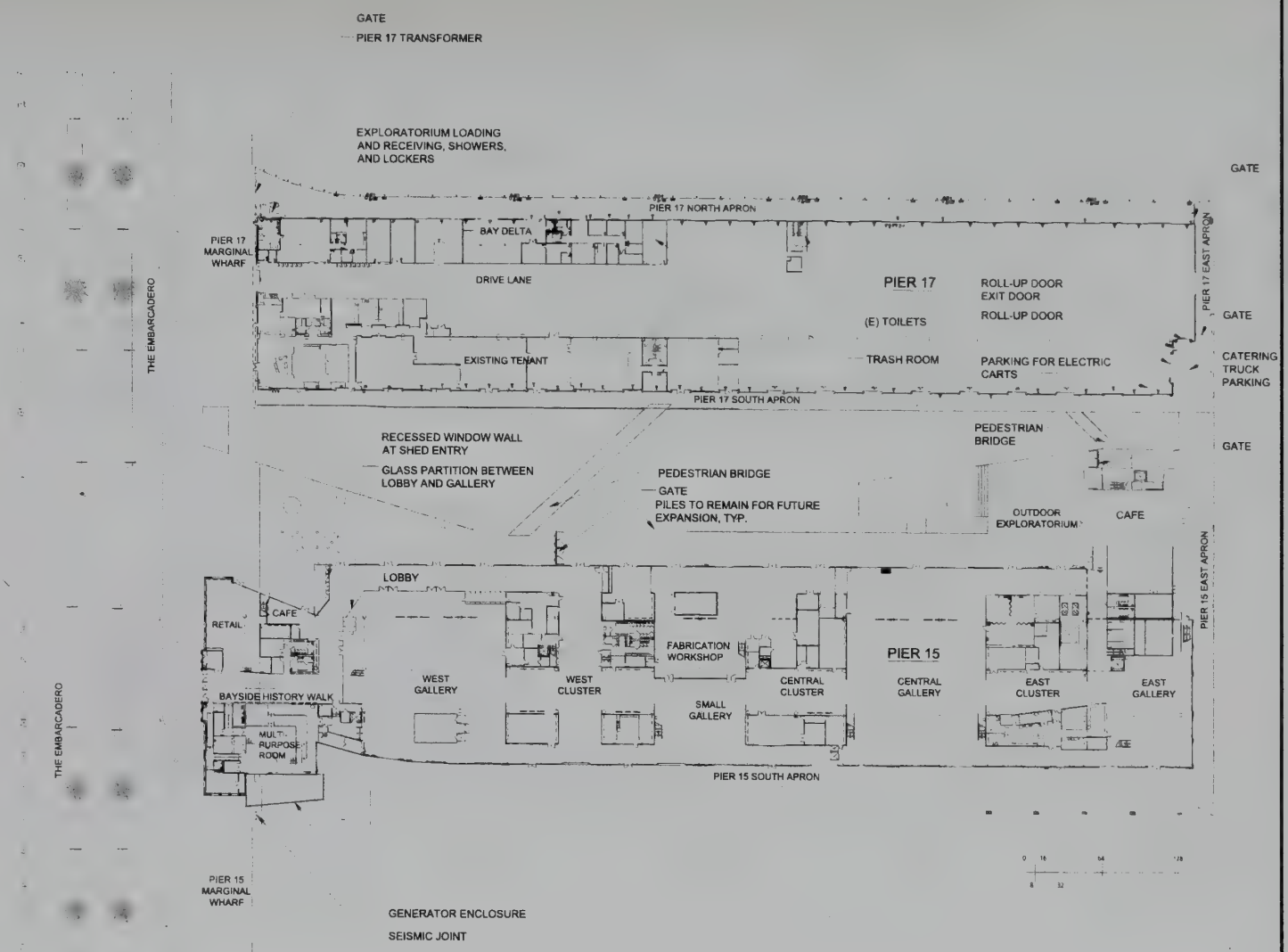
EHDD
Edharrich Hamburg Design & Davis

NTS

07/30/2009

SCHEMATIC DRAWINGS SITE PLAN

A1.21



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the museum of science, art and human perception

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Architecture Interior Design Urban Design
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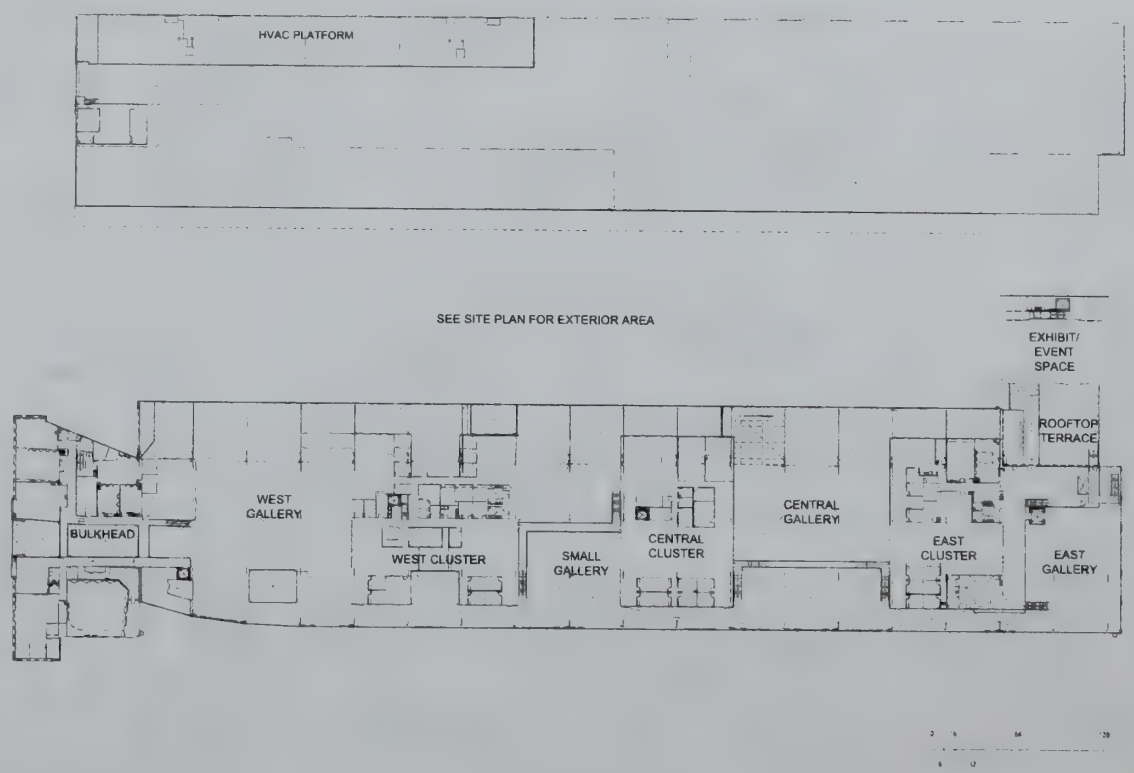
San Francisco, CA 94110
415.285.1.2.3 tel
415.285.1868 fax
arch@ehdd.com

N T S
ES
06030
07/30/2009

SCHEMATIC DRAWINGS
LEVEL 1
FLOOR PLAN

A2.01



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Esherick Homsey Dodge & Davis

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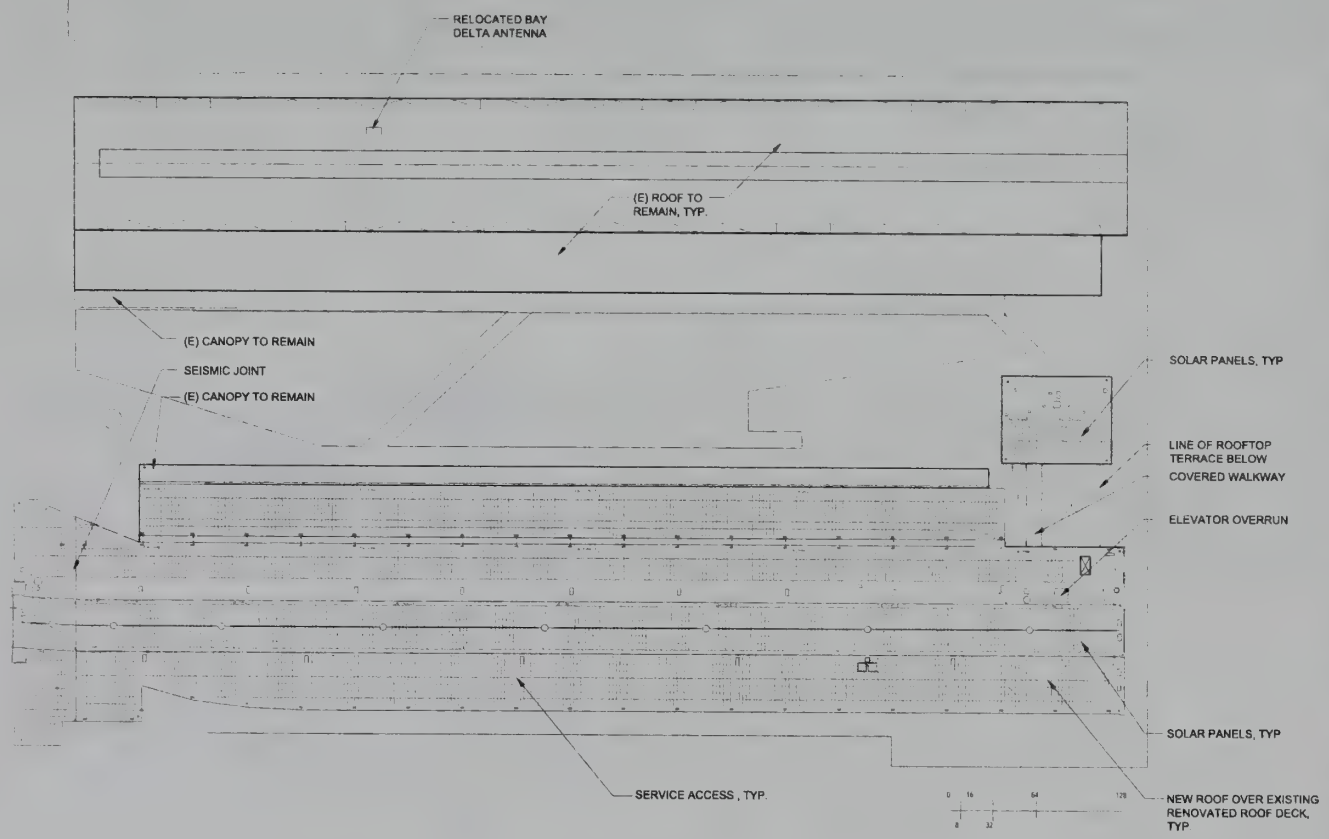
SCHEMATIC
DRAWINGS
LEVEL 2
FLOOR PLAN

A2.02



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Issue

Drawing Date

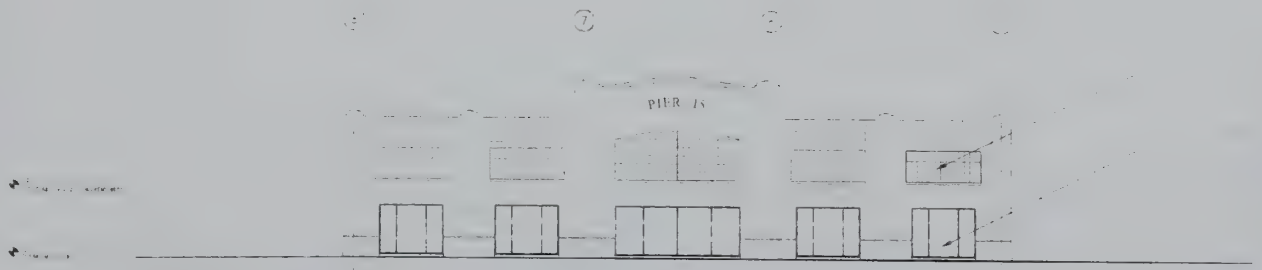
Revisions Date

Scale
1/32"=1'-0"
Drawn by
ES
EHDD Job Number
06830

07/30/2009

Sheet Title
SCHEMATIC
DRAWINGS
ROOF PLAN

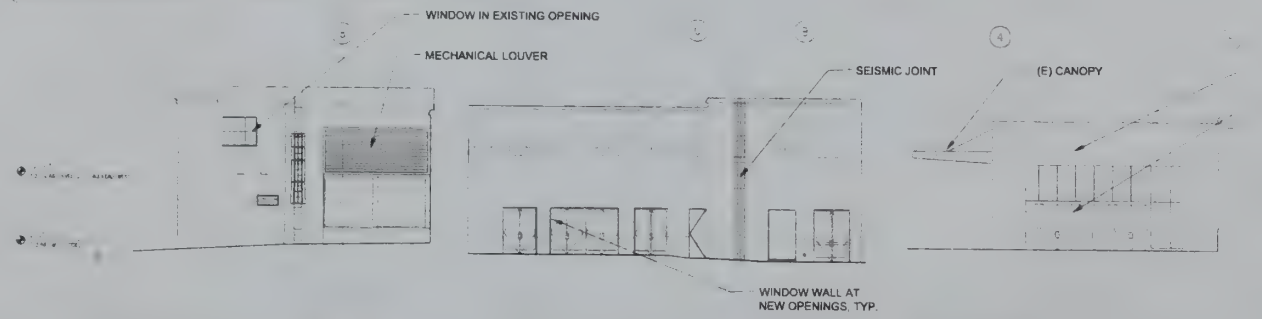
Sheet Number
A2.03



WINDOW TO MATCH ADJACENT HISTORICAL WINDOWS IN EXISTING OPENING

WINDOW WALL

5 A3.01 PIER 15 BULKHEAD EAST ELEVATION



4 A3.01 PIER 15 BULKHEAD EAST ELEVATION

3 A3.01 PIER 15 BULKHEAD NORTH ELEVATION

2 A3.01 PIER 15 SHED WEST ELEVATION

WINDOW WALL AT EXISTING BULKHEAD ARCH

1 A3.01 PIER 15 BULKHEAD WEST ELEVATION

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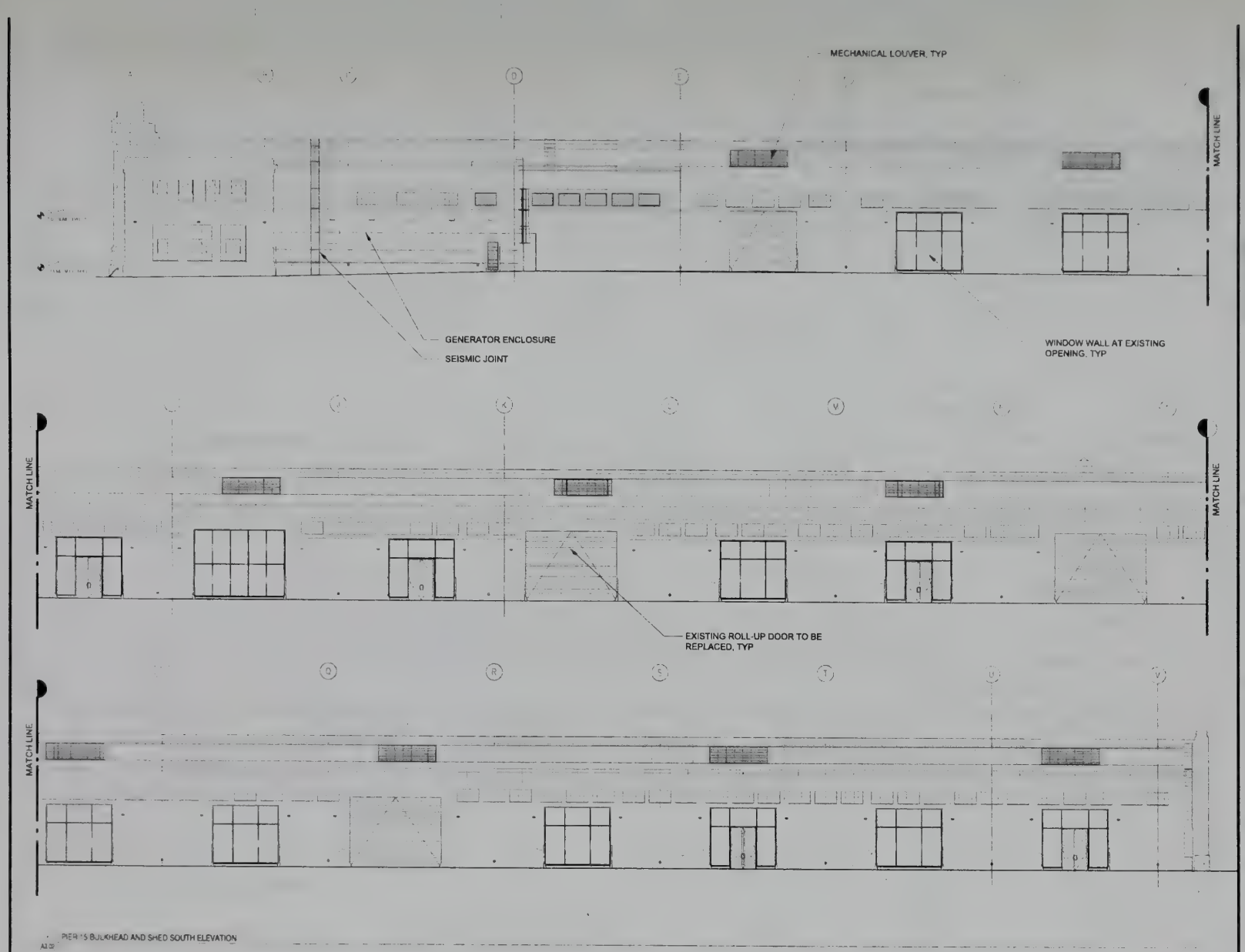
SCHEMATIC DRAWINGS
PIER 15
ELEVATIONS

A3.01



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Consultant

Signature

Revision Date

Revisions Date

Scale
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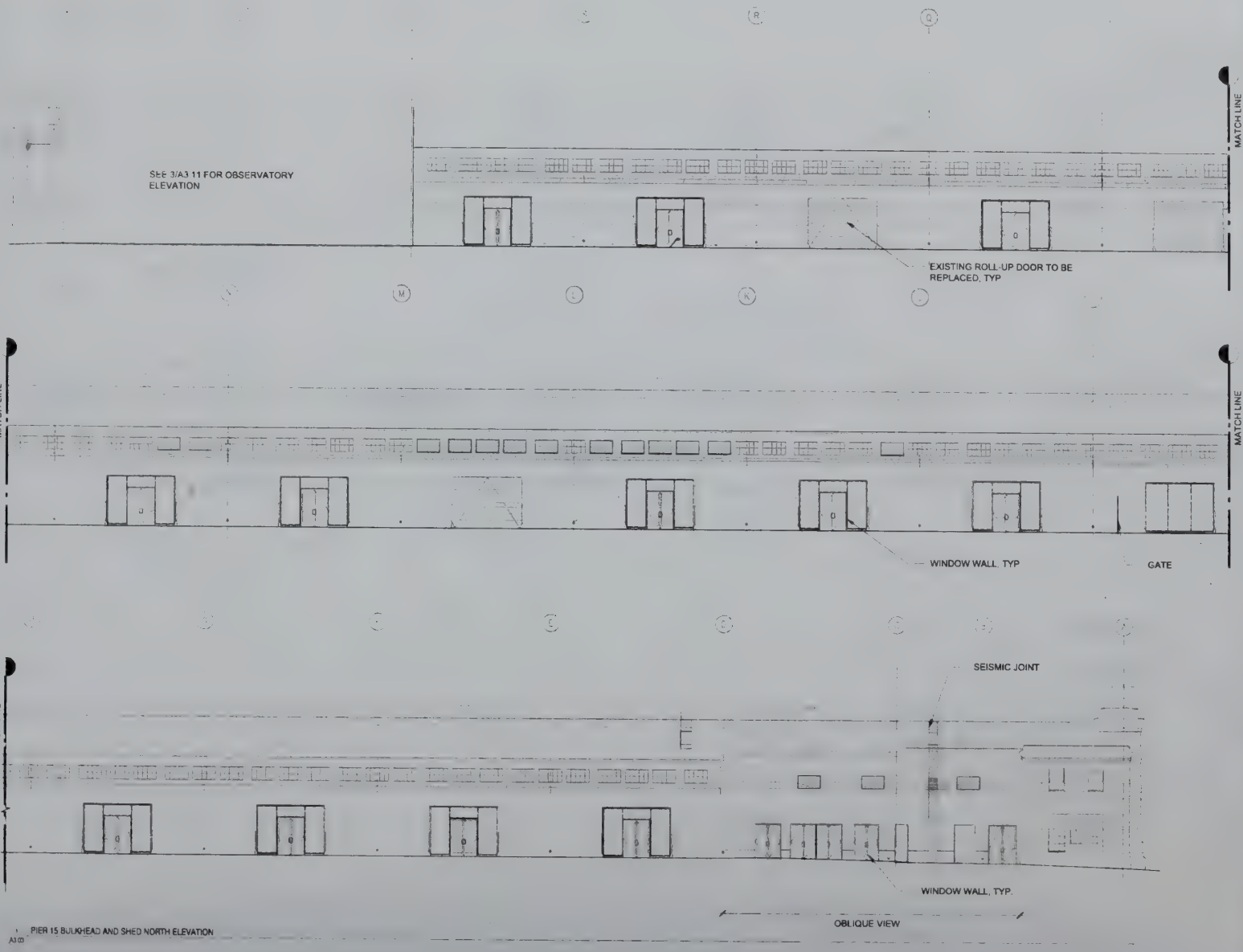
Drawn by
ES
Project Job Number
08030
07/30/2009
Sheet Title
SCHEMATIC DRAWINGS SOUTH ELEVATION

Sheet Number
A3.02



A3.03 PIER 15 BULKHEAD AND SHED NORTH ELEVATION

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art and human perception

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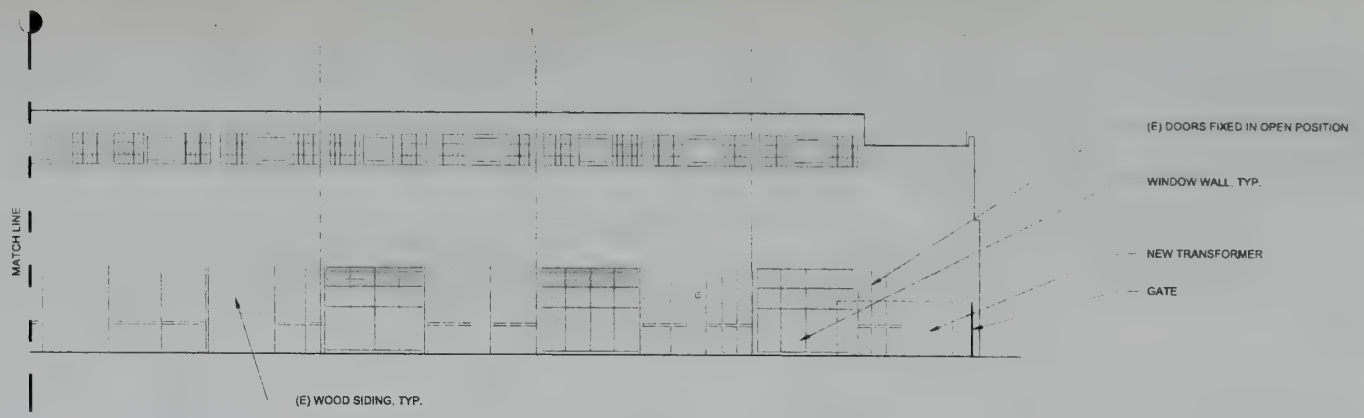
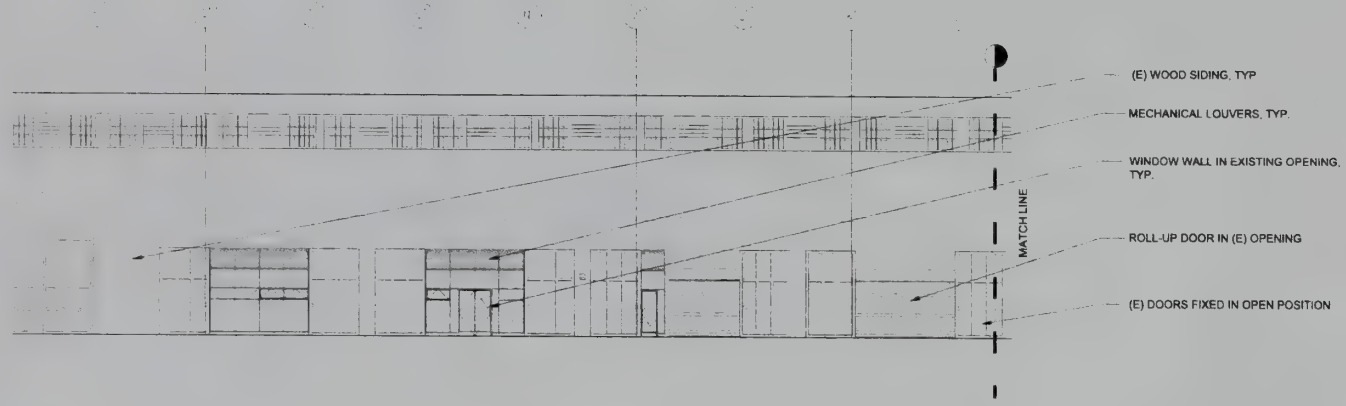
SCHEMATIC DRAWINGS
PIER 15 NORTH ELEVATION

A3.03



2 A3.04 PIER 17 SHED NORTH ELEVATION



1 A3.04 PIER 17 SHED NORTH ELEVATION

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Edwards Hampary Design & Development

Date
07/30/2009

SCHEMATIC DRAWINGS
PIER 17 NORTH ELEVATION

Sheet Number
A3.04

(E) PLASTER, PATCHED AND REPAIRED AS REQUIRED

ROLL-UP DOOR WITH INTEGRAL EGRESS DOOR

(E) SLIDING DOOR, REPAIRED PAINTED AND FIXED IN OPEN POSITION

3 PIER 17 WEST ELEVATION
A3.05 N.T.S

NEW WALL WITH WOOD SIDING TO MATCH EXISTING

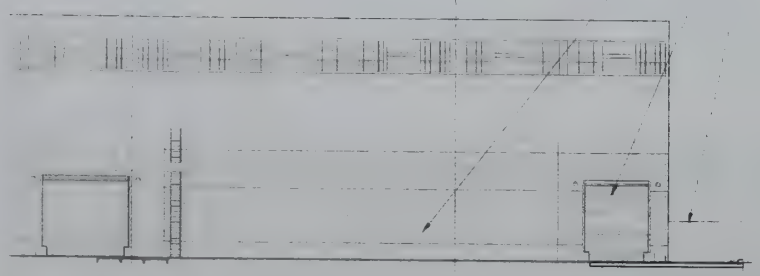
ROLL-UP DOOR IN NEW OPENING

GATE

ROLL-UP DOOR IN NEW OPENING

EGRESS DOOR

(E) HISTORIC FOG HORN TO REMAIN



2 PIER 17 SOUTH ELEVATION
A3.05 N.T.S

1 PIER 17 EAST ELEVATION
A3.05 N.T.S

(E) SLIDING DOOR,

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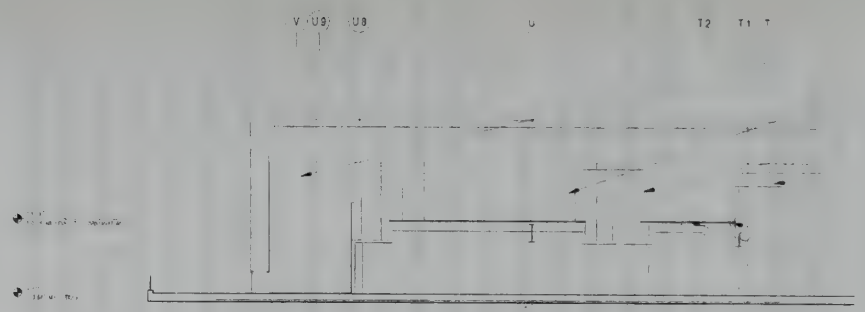
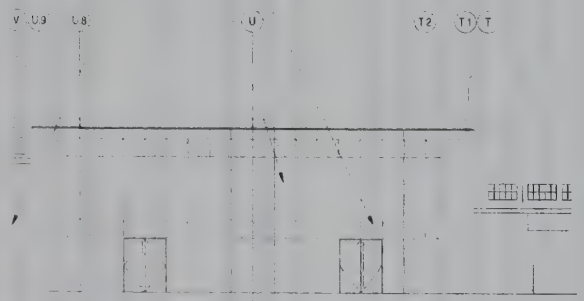
SCHEMATIC DRAWINGS
PIER 17
ELEVATIONS

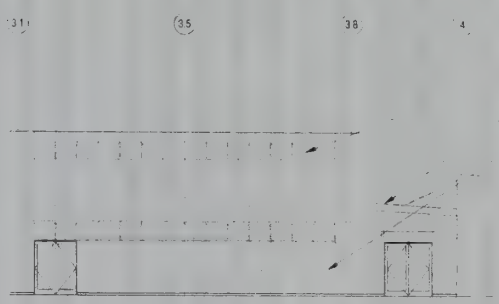
A3.05



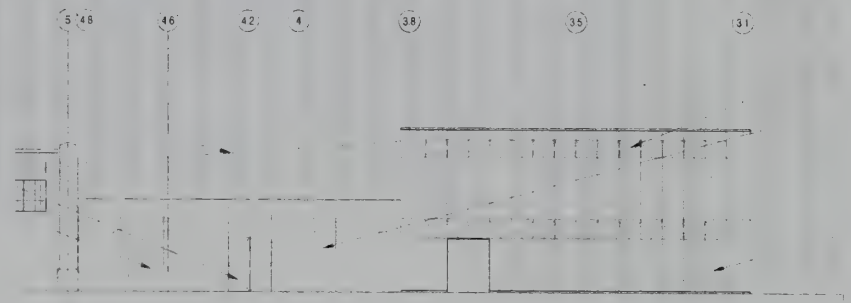
6 A3.11 PIER 15 PARTIAL NORTH ELEVATION @ GRIDLINE 5



3 A3.11 OBSERVATORY NORTH ELEVATION



2 A3.11 OBSERVATORY WEST ELEVATION



1 A3.11 OBSERVATORY EAST ELEVATION

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07/30/2009

SCHEMATIC DRAWINGS OBSERVATORY ELEVATIONS

A3.11

Recommendation of the
Waterfront Design Advisory Committee
From the Meeting Minutes of March 9, 2009

Exploratorium Museum Project at Piers 15/17

Waterfront Design Advisory Committee (WDAC)
Members Present: Dan Hodapp (Chair)
David Alumbaugh
Boris Dramov
Kathrin Moore

The meeting was held jointly with the *Design Review Board* of the San Francisco Bay Conservation and Development Commission (BCDC).

Recommendation:
Pursuant to Section 240 of the San Francisco Planning Code, the WDAC, having reviewed and considered the Draft Environmental Impact Report prepared for the Project under the California Environmental Quality Act, makes the following design recommendations to the San Francisco Planning Department, the Port of San Francisco and the Bay Conservation and Development Commission:

(1) That the drawings for the Project submitted in the Booklet for the March 9, 2009 meeting, and the drawings shown in the PowerPoint Presentation at the March 9, 2009 meeting, be approved by the Port Commission, with the understanding that any changes to the items depicted in the drawings (or to their locations) that are made before or after approval by the Port Commission of the Lease and Lease Disposition and Development Agreement for this Project are to be submitted to Port Staff for review and recommendation, and to the WDAC if determined necessary by Staff;
(2) The design of Pier 17, including the 2nd story bridge connecting the Observatory Building to Pier 17, has not been developed to the same level as the Pier 15 plans, and accordingly these Project components have been reviewed at only a conceptual level. When more detailed plans are developed, the WDAC will conduct additional design review as it deems necessary;
(3) The treatment of the east wall of the Observatory Building shall be further studied to reduce the contrast of light and dark;
(4) Submit glazing samples of the Observatory Building exterior walls for final Staff approval;
(5) Submit glazing samples of the walls in the Bayside History Walk inside Pier 15 for final Staff approval;
(6) A vehicle management program should be implemented and periodically reviewed to monitor and control vehicular traffic at the site;
(7) The ends of the timbers of the water lagoon bridges shall be capped to preserve the wood;

ATTACHMENT 4

(8) The Project Sponsor shall add more seating with backs on the south side of Pier 15 (submit to Port Staff for review of locations, numbers and design changes);
(9) "Skateboard-proof" the benches and submit new or modified designs to Port Staff;
(10) Curb indents must comply with ADA-submit to Port Staff for review;
(11) The Pier 15 curb indent shown in the PowerPoint Presentation is recommended (and supersedes the design shown on p. 35 of the Booklet), and is subject to staff approval;
(12) The general concept for the gates, as shown in the Booklet, is approved; submit finished designs to Port Staff;
(13) The general concept for the light pole and light fixtures, as shown in the Booklet, is approved; submit finished designs to Port Staff;
(14) The bicycle rack shown on p. 33 of the Booklet is recommended;
(15) The design, location and specifications for the water taxi dock are not part of this recommendation; information is to be submitted at a later date;
(16) The east apron railing plan shown on p. 45 of the Booklet is recommended for approval in concept except for the location and design of the northernmost gate, which must be approved by Port's maritime division and building official; the railing design shown on p. 39 of the Booklet is recommended for approval; and
(17) For items not submitted yet to the WDAC (such as tables and chairs for café seating, awnings and canopies, signage, Bayside History Walk exhibits, etc.), submit to Port Staff for review.

ATTACHMENT 4

Recommendation of the
Waterfront Design Advisory Committee
From the Meeting Minutes of July 6, 2009

Exploratorium Museum Project at Piers 15/17

Waterfront Design Advisory Committee (WDAC)
Members Present: Dan Hodapp (Chair)
David Alumbaugh
Boris Dramov
Kathrin Moore

The meeting was held jointly with the *Design Review Board* of the San Francisco Bay Conservation and Development Commission (BCDC).

Recommendation:
Pursuant to Section 240 of the San Francisco Planning Code, the WDAC, having reviewed and considered the Draft Environmental Impact Report prepared for the Project under the California Environmental Quality Act, makes the following design recommendations to the San Francisco Planning Department, the Port of San Francisco and the Bay Conservation and Development Commission:

- The massing, height and layout of the new design for the Observatory Building is approved;
- The Committee supports the materials palette selected for the Observatory Building;
- The Project Sponsor shall submit materials samples, colors and detailing for the Observatory Building to Port Staff and, at Staff's discretion, to the WDAC for further review and approval;
- The Project Sponsor shall submit lighting plans and roof top equipment plans to Port Staff for further review and approval.

G:\Exploratorium\Staff Report\staff report exhibits\ATTACHMENT 4 WDACRecommendations.doc

ATTACHMENT 4

EXPLORATORIUM LEASE DISPOSITION AND DEVELOPMENT AGREEMENT
SCHEDULE OF PERFORMANCE

Several principles apply to an effective understanding of this Schedule of Performance: (i) all terms used herein have the same meanings as provided in the Agreement; (ii) parenthetical numbers are references to sections of the Agreement, as the dates described herein are not exhaustive of all dates described in the Agreement; and (iii) in the event of an inconsistency between this Schedule of Performance and the Agreement, the Agreement shall prevail.

Action	Required Completion Date
Submission--Evidence of Adequate Financing. Developer shall submit to Port evidence of adequate financing, including Development Budget, bona fide commitment of leasehold lender, if applicable, and statement of sources and uses of funds (Section 3.3(a)(v)).	No later than 60 days prior to the Closing Date
Approval--Evidence of Adequate Financing. Port shall approve or disapprove the evidence of adequate financing (including the reasons for disapproval) in writing (Section 3.3(a)(v)).	Within 30 days after complete submittal thereof
Submission-Labor History Report. Developer shall prepare and submit the Labor History Report to Port for review and approval (Sections 7.2(a) and (b)).	No later than 60 days prior to the Closing Date
Approval-Labor History Report. Port must notify Developer in writing of its approval or disapproval (Sections 7.2(b), 7.5(c)).	Within 30 days after submittal thereof
Submission-Photos of Pier 17 Office Addition. Developer shall prepare and submit to Port and the San Francisco Planning Department for their review and approval archival-quality photographic documentation of the pre-1929 office addition at Pier 17, in accordance with Improvement Measure I-CP-3 (Section 7.1(c)).	No later than 60 days prior to issuance by Port of a demolition permit for removal or demolition of the Pier 17 office addition
Approval-Photos of Pier 17 Office Addition. Port and must notify Developer in writing of its approval or disapproval (Section 7.1(c)).	Prior to issuance by Port of a demolition permit for removal or demolition of the Pier 17 office addition
Submission-Preliminary Construction Documents. Developer shall prepare and submit the Preliminary Construction Documents to Port for review and approval (Sections 7.1(a), 7.4, 7.5(c)). (*)	No later than 150 days prior to the Closing Date

ATTACHMENT 5

Action	Required Completion Date
Approval-Preliminary Construction Documents. Port shall approve, disapprove or approve conditionally the Preliminary Construction Documents (Sections 7.5(b), 7.5(c)). (*)	Within 30 days after complete submittal thereof
Submission-Revisions to Preliminary Construction Documents. If Port disapproves or conditionally approves the Preliminary Construction Documents, Developer shall submit revisions to the Preliminary Construction Documents to Port for review and approval (Section 7.5(c)). (*)	As expeditiously as possible; Developer may continue submitting revisions until the later of (i) receipt of approval, or (ii) 30 days after Port action; Port shall respond within a reasonable time after each new submittal.
Submission-Final Construction Documents & LEED Worksheet. Developer shall prepare and submit to Port the Final Construction Documents for review and approval and the LEED worksheet for review (Sections 7.1(a), 7.4, 7.5(c)). (*)	No later than 95 days prior to the Closing Date
Approval-Final Construction Documents. Port shall approve, disapprove or approve conditionally the Final Construction Documents (Section 7.5(c)). (*)	Within 30 days after complete submittal thereof
Submission-Revisions to Final Construction Documents. If Port disapproves or conditionally approves the Final Construction Documents for the Improvements, in whole or in part, Developer shall submit revisions to the Final Construction Documents to Port for review and approval (Section 7.5(d)). (*)	As expeditiously as possible; Developer may continue submitting revisions until the later of (i) receipt of approval or (ii) 30 days after Port action
Submission-Application for Building Permit. Developer shall submit to Port a complete application for a full Building Permit for the Improvements (Section 7.12).	Within 10 days after Port's approval of Final Construction Documents (*)
Submission-Photos & Narrative Description. Developer shall submit photos and a narrative description of the existing condition of the fender piles along the East Apron (Water License) .	Prior to the Closing Date
Submission-Guaranteed Maximum Price Contracts. Developer shall submit evidence of a guaranteed maximum price contract for Construction of the Improvements and the Baydelta Improvements and a contract for the Dredging Work (Section 3.3(a)(xvi).	No later than 30 days prior to the Closing Date
Approval-Guaranteed Maximum Price Contracts. Port shall reasonably approve (Section 3.3(a)(xvi).	No later than 10 days prior to the Closing Date

ATTACHMENT 5

Action	Required Completion Date
Submission-DMMO Permit. Developer shall submit evidence that it has obtained a dredging permit from the DMMO (Section 3.3(a)(xx)).	Prior to the Closing Date
Submission-RWQCB Permit. Developer shall submit evidence that it has obtained a Water Quality Certification Permit from the RWQCB (Section 3.3(a)(xx)).	Prior to the Closing Date
Submission-NPDES Permit. Developer shall submit evidence that it has obtained a National Pollution Discharge Elimination System ("NPDES") Permit from the RWQCB (Section 3.3(a)(xx)).	Prior to issuance of the Certificate of Occupancy
Submission-Army Corps of Engineers Permit. Developer shall submit evidence that it has obtained a Permit from the Army Corps of Engineers (Section 3.3(a)(xx)).	Prior to the Closing Date
Submission–Evidence of Trust Consistency Determination. Developer shall submit evidence that Developer has received an executed letter from the State Lands Commission that the Project is trust-consistent (Sections 3.3(a)(xx), 3.4(a)(xvii), 11.1(a), 16).	Prior to the Closing Date
Submission–BCDC Permit. Developer shall submit to Port evidence that it has obtained a BCDC Major Permit (Sections 3.3(a)(xx), 3.4(a)(xvii), 11.1(a), 16).	Prior to the Closing Date
Opening of Escrow. Developer shall open Escrow with the Title Company for Delivery of the Site (Section 3.2(a)).	No later than 45 days prior to the Closing Date
Prepare Joint Escrow Instructions. Port and Developer shall prepare Joint Escrow Instructions (Section 3.2(b)(ii)).	No later than 30 days prior to the Closing Date
Execute Joint Escrow Instructions. Port and Developer shall execute and deliver Joint Escrow Instructions to the Title Company (Section 3.2(b)(ii)).	No later than 5 days prior to the Closing Date
Submission-Certificate to Confirm Representations and Warranties. Developer shall submit to Port a certificate to confirm the accuracy of all Developer's representations and warranties made in Section 14.21 of the Agreement (Section 3.5(b)(ii)).	Prior to the Closing Date
Deposit-Costs of Escrow. Developer shall deposit all Closing Costs into Escrow (Sections 3.2(d), 3.5(b)(ii)(6)).	Promptly after Title Company notifies Developer that such amounts are payable, but in any event prior to the Closing Date

ATTACHMENT 5

Action	Required Completion Date
Close of Escrow. Port shall deliver the Site to Developer and Developer shall accept Delivery of the Site under the Lease (Section 3.5).	On the Closing Date
CLOSING DATE (Section 3.2(b)(i)).	No later than 18 months after the Effective Date
Commencement of Construction of Improvements. Developer shall use its reasonable efforts to commence all construction and development within the times specified in this Schedule of Performance or within such extension of time as Port may grant in writing, in its reasonable discretion, or as otherwise permitted by the Agreement, subject to Force Majeure (Section 7.1(a)).	No later than two (2) months after the Closing Date
Notice-Construction Commencement/Completion. Developer shall send notice in writing to Port notifying Port of the date that Construction commenced and the date that is 36 months thereafter (the date for Completion of Construction of Improvements).	Within 10 days after commencement of Construction of Improvements
Notice-Estimated Opening Date. Developer shall send notice in writing to Port notifying Port of the date the Museum is anticipated to be open to the general public ("Opening Date").	No less than 12 months prior to the estimated Opening Date
Submission-Pre-Opening Sign Proposal. Developer shall prepare and submit to Port the Pre-Opening Sign Proposal for review and approval (Section 7.14(c)). (*)	No less than 12 months prior to the estimated Opening Date
Approval-Pre-Opening Sign Proposal. Port shall notify Developer of any required changes to the Pre-Opening Sign Proposal and whether review by the WDAC will be required (Section 7.14(c)). (*)	Within 45 days after complete submittal thereof
Submission-Pre-Opening Sign Program. Developer shall incorporate Port's, WDAC's and BCDC's requested changes to the Pre-Opening Sign Proposal (Pre-Opening Sign Program) and resubmit for Port's review and approval (Section 7.14(c)). (*)	As expeditiously as possible; Developer may continue submitting revisions until the later of (i) approval, or (ii) 60 days prior to the estimated Opening Date
Installation of Signs. All Signs set forth in the Pre-Opening Sign Program shall be installed on the Site (Section 7.14(c)).	No less than 30 days prior to the estimated Opening Date

ATTACHMENT 5

Action	Required Completion Date
Completion of Construction of Improvements. (Section 7.1(a))	No later than 36 months from the Commencement of Construction of Improvements (and, upon request of Developer, up to an additional twelve (12) months for completion of the restaurant located in the Observatory Building)
Submission-LEED Silver Certification. Developer shall submit evidence that it has obtained certification of LEED silver or higher for the Project (Sections 7.1(a), 12.13).	Within twenty-four (24) months after Completion of Construction of Improvements
Submission-Request for Certificate of Completion. Developer may request a Certificate of Completion in writing from Port (Section 8.1(a)(ii)).	After Completion of Construction of the Improvements in accordance with all provisions of the Agreement
Approval-Certificate of Completion. Port shall act on Developer's request for a Certificate of Completion (Sections 8.1(a)(ii), 8.1(b), 8.1(c)).	Within 30 days of receipt of the request
Submission-As-Built Documents. Developer shall furnish Port As-Built Documents with respect to the Site (Sections 7.9(a), (b), (c)).	Within 180 days after Completion of the Improvements
Submission-Certified Construction Costs. Developer shall furnish Certified Construction Costs to Port (Section 7.9(d)).	Within 90 days after Completion of the Improvements, or as soon thereafter as reasonably practicable, but in no event more than 9 months after Completion of the Improvements

(*) Port acting in its proprietary capacity only.

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ATTACHMENT 5

DEVELOPMENT BUDGET [1]

Total Development Cost for the Construction of the Improvements

Hard Costs	
Rehabilitation and Repair of Substructure	36,300,000
Seismic Upgrading of Substructure	12,600,000
Rehabilitation, Repair, and Seismic Upgrading of Superstructure	16,700,000
Pier 15 Interior Improvements	45,000,000
Pier 17 Interior Improvements	1,900,000
Connector Building Demolition and Construction of Observatory Building	2,600,000
Utility Infrastructure	1,000,000
Site Improvements	1,800,000
Off-site Improvements	1,000,000
Substructure Costs for North Apron (Baydelta Improvements)	5,800,000
Pier 17 Shed Component (Baydelta Improvements)	900,000
Subtotal - Hard Costs	**125,600,000**
Contractor's Costs [2]	
General Conditions	TBD
Overhead, Profit, PL & PD, Bond, Business Tax	TBD
Construction Contingency	TBD
Estimating & Design Contingency	TBD
Escalation to Construction Start	TBD
Subtotal - Contractor's Costs	TBD
Total Hard Costs	**125,600,000**
Soft Costs and Other Pre-Development Fees	
Port Payments	2,000,000
Entitlement Fees	1,000,000
Architectural and Engineering	12,800,000
Permits and Inspections	2,000,000
Insurance	1,000,000
Legal Expenses	1,000,000
Financing Fees, Taxes, Commissions	600,000
Project Management	6,000,000
Project Contingency	14,000,000
Total Soft Costs	**40,400,000**
Dredging Costs for Pier 17-19 Water Basin (Baydelta Improvements)	1,000,000
Furniture, Fixtures & Equipment	8,000,000
TOTAL DEVELOPMENT COSTS	**$ 175,000,000**

[1] Costs shown are the estimates available at this time. Per LDDA Section 3.3(a)(v)(1) Developer shall submit a current budget for the Improvements in accordance with the Final Construction Documents by Close of Escrow.

[2] Included in Hard Costs

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ATTACHMENT 6

ECONOMIC AND WORKFORCE DEVELOPMENT
MICHAEL COHEN, DIRECTOR

CITY AND COUNTY OF SAN FRANCISCO
GAVIN NEWSOM, MAYOR

March 9, 2009

Mr. Dan Hodapp
Committee Chair
Waterfront Design Advisory Committee
Pier 1, The Embarcadero
San Francisco, CA 94111

Re: Exploratorium at Piers 15/17

Dear Dan:

Over the past several years, the Mayor's Office and the Mayor's Office of Economic and Workforce Development have supported the advancement of the Port and Exploratorium's partnership to locate the museum's new home at Piers 15 and 17. The proposed project provides great benefit to the Port and the City, including the expansion of a unique and valuable San Francisco institution, renovation of deteriorating Port piers, activation of a vital stretch of the waterfront, and preservation of important historic resources.

Significant progress has been made to date to entitle the project and begin construction, and it is encouraging to see the proposed project steadily moving forward in a challenging economic climate.

I commend the WDAC's diligence in reviewing the proposed schematic design and support the recommendations being made by the committee. With regard to the Embarcadero roadway and sidewalk improvements, I am offering my office's support to insure that these improvements are financed and constructed. Specifically, Port staff and the WDAC have made recommendations that the following improvements are made to the Embarcadero roadway and sidewalk adjacent to Piers 15 and 17, including:

- Modification of the existing public art ribbon in front of Pier 15 and Pier 17 by flattening the raised portions;
- Straighten the crosswalk at the intersection of Green Street and Embarcadero, including extension of streetcar platform, new curbs, gutters, paving, striping, signage, relocation of street poles, relocation of vehicular and pedestrian traffic signals;
- Constructing sidewalk bulb-outs at northwest and southwest corners of Green Street / Embarcadero intersection; and
- Removal of existing southbound left turn lane from Embarcadero into Piers 15/17, including required modifications to traffic signals.

Since these proposed improvements will require cooperation from various City agencies, such as the Municipal Transportation Agency, Art Commission, Planning Department and the Department of Public Works, my office has agreed to take a lead role in coordinating the design, construction and financing of the improvements. I would further recommend formalizing our proposed role with the Port through an inter-departmental Memorandum of Understanding (MOU), so the Port has confidence that the improvements will be timely completed.

I look forward to continuing to work with the Port on this important project.

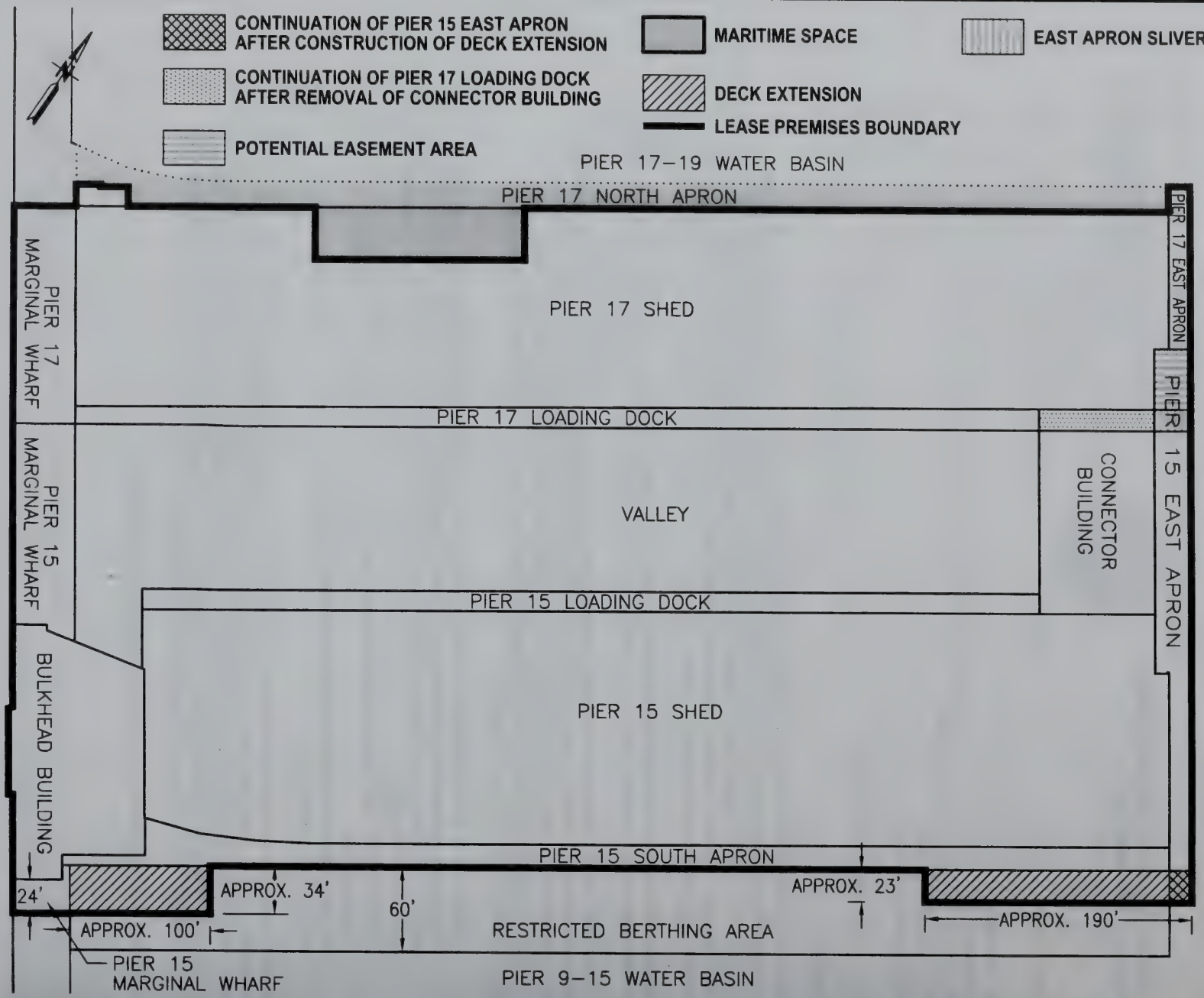
Sincerely,

Michael Cohen

cc.
Byron Rhett
Jennifer Sobol

ATTACHMENT 7

1 DR. CARLTON B. GOODLETT PLACE, ROOM 448, SAN FRANCISCO, CA 94102
(415) 554-6969 VOICE (415) 554-6018 FAX



ATTACHMENT 8

LEASE NO.		TENANT			
L-14711	SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING	THE EXPLORATORIUM	SITE PLAN LEASE PREMISES	DRAWN BY: ECC, AMN CHECKED BY: J. SOBOL PLACE CODE NO. 1150/1170	DATE: SEP 1, 2009 SCALE: 1" = 100' SHEET NO. 1 OF 1 SHEETS

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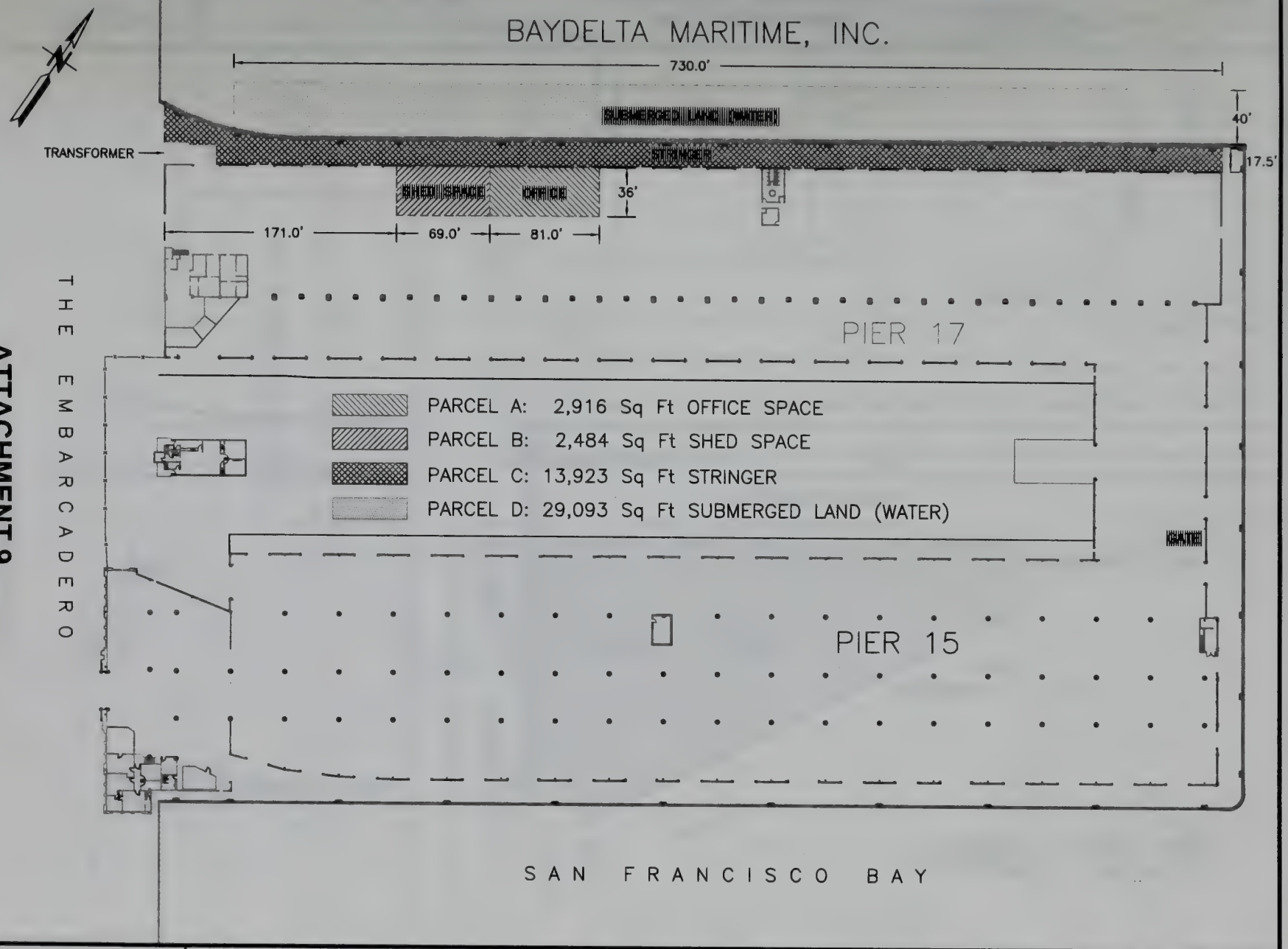

ATTACHMENT 9

LEASE NO.		TENANT		
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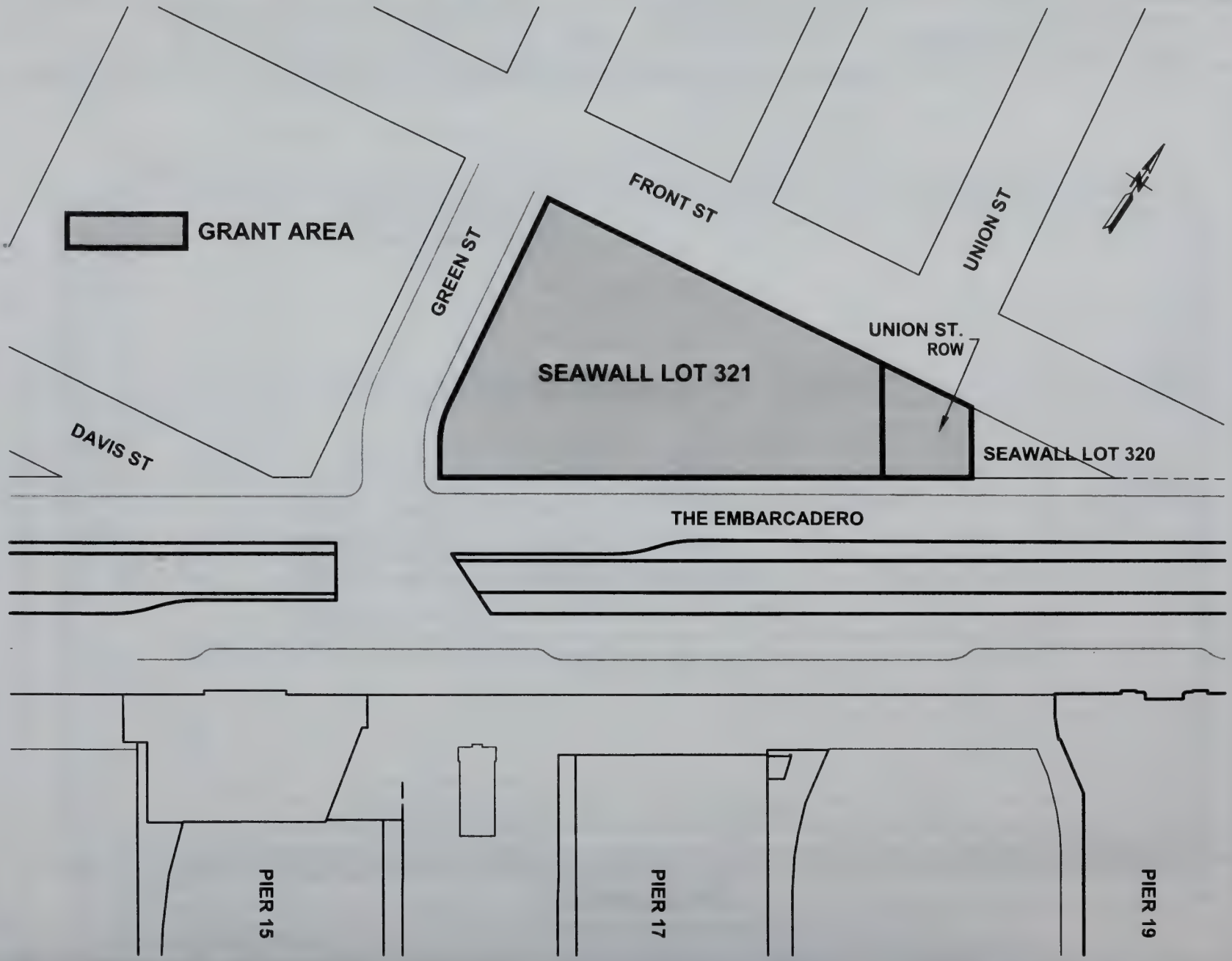
ATTACHMENT 10



SAN FRANCISCO PORT COMMISSION
PORT OF SAN FRANCISCO
DEPARTMENT OF ENGINEERING

LICENSEE:
THE EXPLORATORIUM
PARKING AGREEMENT

DRAWN BY: ECC, AMN	DATE: SEP 1, 2009
CHECKED BY: J. STERN	SCALE: 1" = 100'
PLACE CODE NO. 3210-00/4020-00	SHEET NO. 1 OF 1 SHEETS

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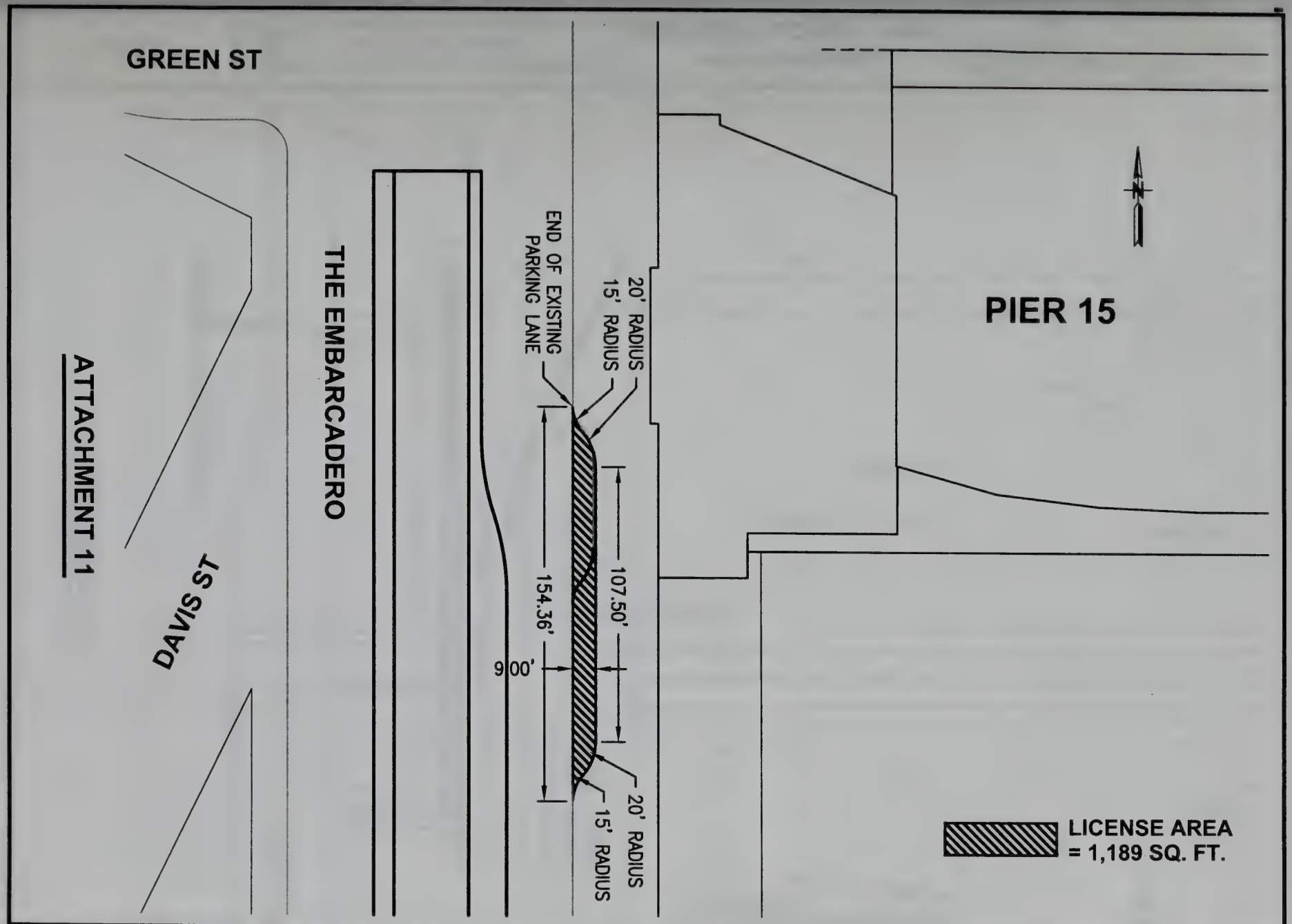

ATTACHMENT 11

LICENSE NO.		LICENSEE:		
14714	SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING	THE EXPLORATORIUM **CURB INDENT LICENSE - PIER 15**	DRAWN BY: ECC, AMN CHECKED BY: J. SOBOL PLACE CODE NO. 1150/1170	DATE: SEP 1, 2009 SCALE: 1" = 100' SHEET NO. 1 OF 1 SHEETS

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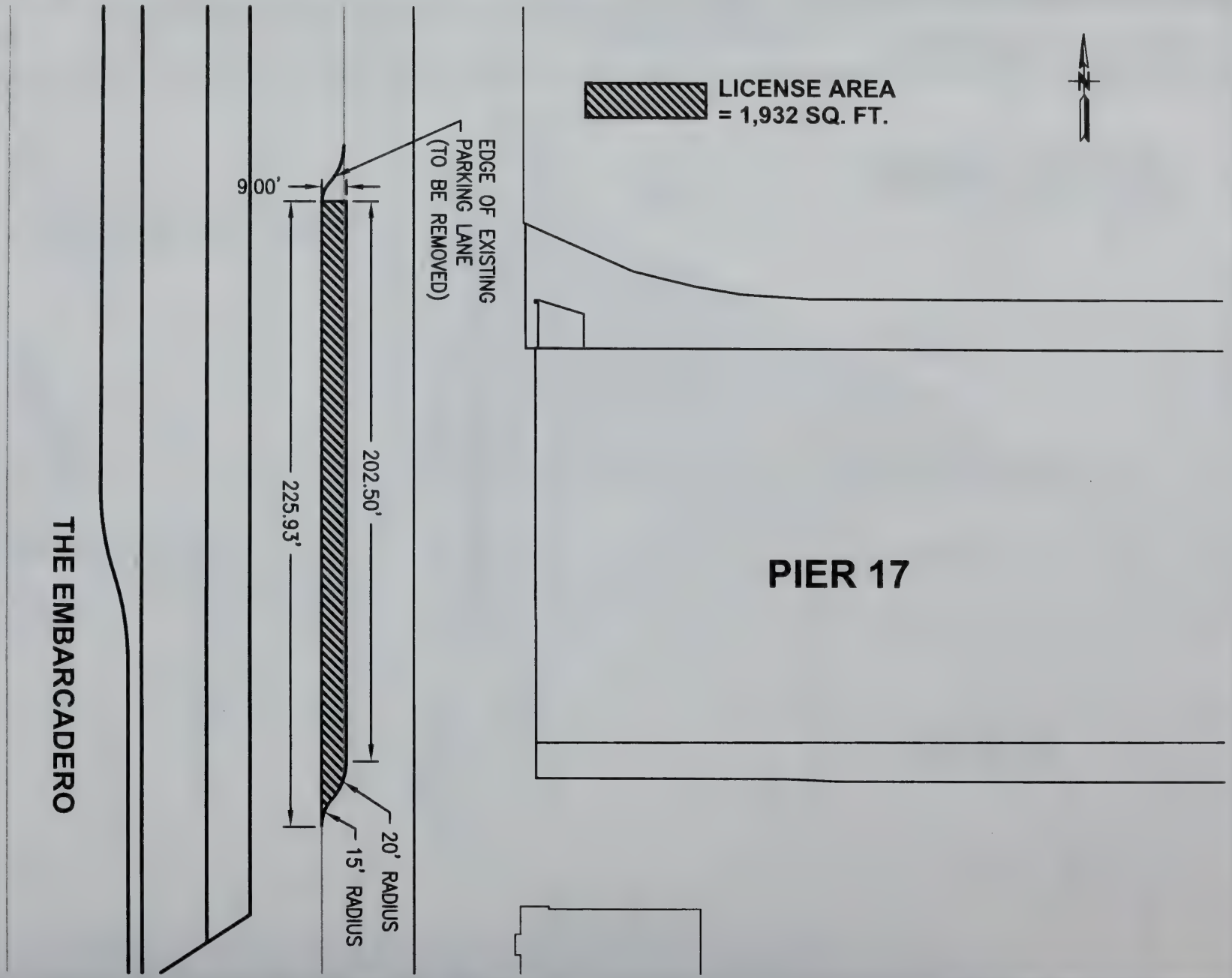

ATTACHMENT 12

LICENSE NO. 14715	SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING	LICENSEE: THE EXPLORATORIUM CURB INDENT LICENSE - PIER 17	DRAWN BY: ECC, AMN CHECKED BY: J. SOBOL PLACE CODE NO. 1150/1170	DATE: SEP 1, 2009 SCALE: 1" = 100' SHEET NO. 1 OF 1 SHEETS

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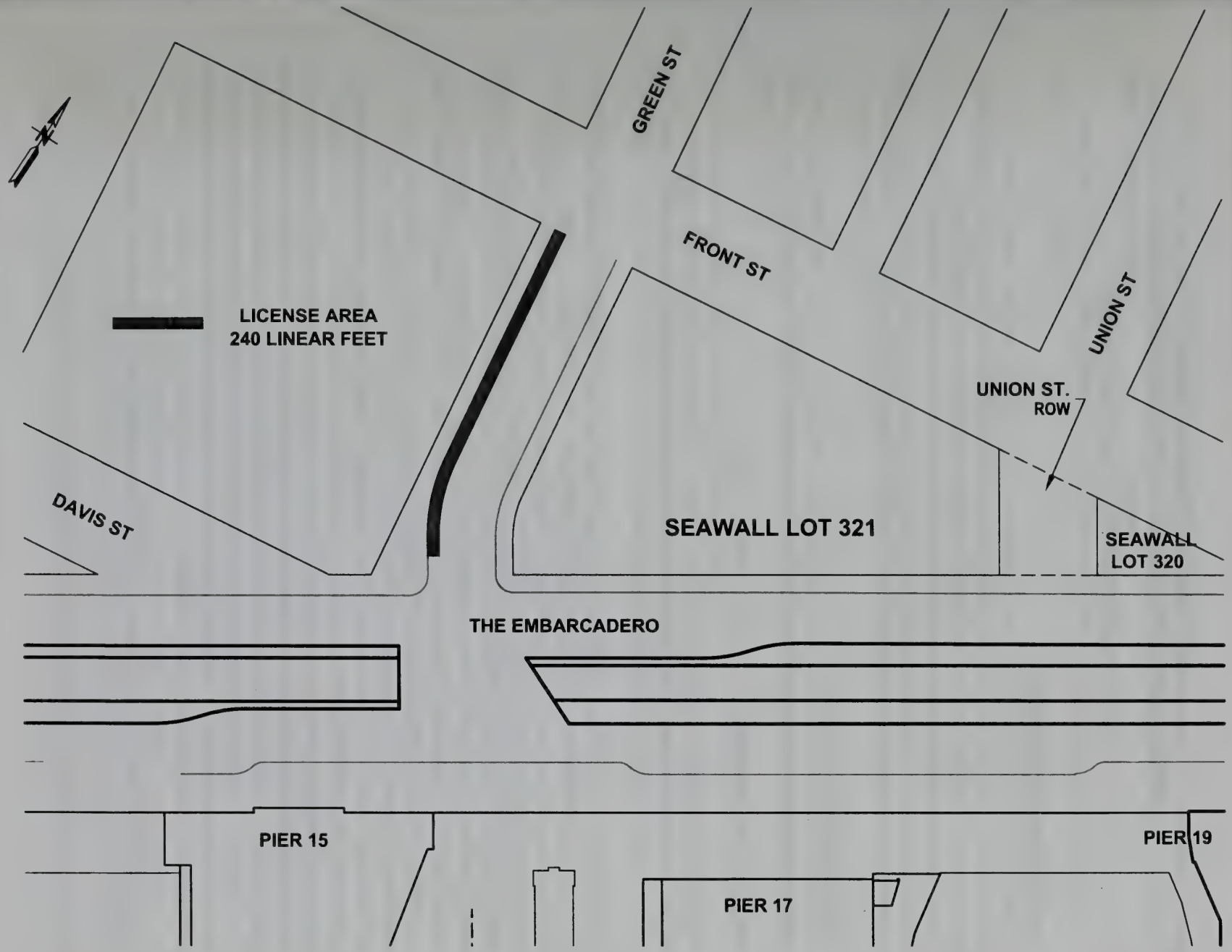
ATTACHMENT 13



LICENSE No.: 14716	SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING	LICENSEE: THE EXPLORATORIUM **CURB SPACE - GREEN ST**	DRAWN BY: ECC, AMN CHECKED BY: J. STERN PLACE CODE NO. 3210-00/4020-00	DATE: SEP 1, 2009 SCALE: 1" = 100' SHEET NO. 1 OF 1 SHEETS

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MITIGATION MEASURES AND
MITIGATION MONITORING AND REPORTING PROGRAM
for the
EXPLORATORIUM RELOCATION PROJECT

I. MITIGATION MEASURES

By Resolution No. 09-46, the Port Commission found that the following FEIR mitigation measures will mitigate, reduce, or avoid significant environmental effects of the Exploratorium Project, adopted these measures and recommended that the Planning Department work in conjunction with the Port to implement and enforce these measures as set forth below and in the Mitigation Monitoring and Reporting Program.

CULTURAL RESOURCES

Significant impacts to cultural resources are discussed in FEIR Section III.D.

Mitigation Measure M-CP-1: Historical Resources

The following mitigation measure outlines a series of design and performance criteria relative to the Expanded Project that would reduce potential significant impacts to the historic resource to a less-than-significant level.

The Port of San Francisco (Port) would require the Expanded Project to comply with the Secretary of the Interior's Standards for Rehabilitation (the *Secretary's Standards*) whether or not tax credits are sought. In addition, if the Project Sponsor seeks Federal Historic Preservation Tax Credits for the Expanded Project, then the Expanded Project must comply with the *Secretary's Standards* to qualify for the tax credits. If the Expanded Project meets the design and performance criteria set forth below, the Expanded Project will comply with the *Secretary's Standards*. Based on the preliminary conceptual drawings the Expanded Project, subject to additional refinement, has the potential to meet the performance criteria. The Expanded Project shall, at a minimum, incorporate these performance criteria into the design. The Expanded Project may also pursue alternative approaches that minimize the potential to cause adverse changes in Pier 17's character-defining features and historic character. If there are multiple means and methods for complying with the performance criteria, these alternatives shall be carefully evaluated by a qualified historic preservation architect or consultant who meets or exceeds the Secretary of the Interior's Professional Qualification Standards in Historic Architecture, and the alternative that provides the greatest level of consistency with the criteria and on balance has the least impact shall be implemented.

The Expanded Project shall preserve, rehabilitate, or restore the previously-defined character defining features of Pier 17, which include, at a minimum:

- Building profile, roof configuration, and relationship to surrounding site;

• Substructure: wood deck resting on wood piles (piles were encased in reinforced concrete cylinders and the space between the timber and concrete was filled with sand, or cement grout –outer piles only);

• Transit shed wood-frame construction (stud-frame walls, wood plank gable roof, and interior roof trusses);

• Roof configuration, including roof monitor, monitor windows frames, pattern, size, and detailing;

• North façade, including v-groove wood siding, and wood warehouse doors;

• East façade, including v-groove wood siding, gable ends, signage, double wood warehouse doors, and monitor end;

• West façade profile (only 96 ft on north end), (excluding the 1929 office addition which will be demolished in the Project) not including 1955-56 Addition and central door opening (altered in 1958);

• Central historic wood cargo doors on the west façade;

• Open interior volume and spatial character, including pier shed, exposed ceilings, wood roof decking, wooden trusses and structural columns;

• Interior office at west end;

• Concrete pier deck;

• Historic restroom facilities in Pier 17 shed (originally identified as the Stevedore's toilet);

• Pier substructure and supporting piles;

• Interior rail spur (located along center bay); and

• Foghorn housing at east end of roof gable.

As stated in the Expanded Project Description, the Project Sponsor may decide to expand the museum into Pier 17 in the future. The Project Sponsor has developed a master plan for the Exploratorium, which preliminarily outlines the intended uses and conceptual design. The Expanded Project would change the use of most of Pier 17 from light industrial/maritime to educational/museum/retail uses, although a small portion would be retained for maritime use by Baydelta Maritime. However, the basic height and bulk of Pier 17 under the Expanded Project shall remain the same as under current conditions. The Project Sponsor and the historic preservation architect shall consult with the Port staff prior to seeking Port Building Permits. The historic preservation architect shall prepare a written assessment of the project scope of work for consistency with the Secretary of the Interior's Standards for the Treatment of Historic Properties and secure written authorization from the

Port of San Francisco to proceed to develop the conceptual architectural plans into the a set of design development-level detailed architectural plans.

Based upon the current description of the Expanded Project, the following categories of performance criteria have been outlined, in order to sensitively address the historic fabric:

1. *Restoration of west façade of Pier 17 (including removal of existing plaster; restoration of original wood siding; and reconstruction of original wood windows).*

Under the Expanded Project, the west façade of Pier 17 would be restored back to its original condition based upon physical evidence, including but not limited to, the original architectural drawings and historic photographs. This work would include the removal of the existing stucco finish (installed in 1958 and considered a non-contributing finish), restoration or in-kind-replacement of the original wood siding, and reconstruction of the original wood-sash windows. Currently, the windows consist of non-historic aluminum-sash replacements. As part of this work, the main doors would be refurbished and preserved in place (further detail provided under Performance Criteria #2). These doors would be anchored into an open position, and a new glazed storefront system would be installed. The character-defining features on this façade, including the building profile and main doors, would be rehabilitated and not affected by these proposed alterations.

Performance Criteria: For this aspect of the Expanded Project, the restoration shall include, at a minimum, the following components, which shall be designed and undertaken consistently with the Secretary's Standards by a qualified historic preservation architect with experience in restoration. The Expanded Project shall:

a) Reinforce the building's historic character by restoring elements which were removed or extensively altered between 1955 and 1956, including the original wood siding and woodsash windows.

b) Restore original wood-sash windows according to the original architectural drawings and historic photographs. These windows should be restored to match the original profile, sash configuration, operability and material.

c) Examine the underlayment of the stucco exterior to assess if the original wood siding is still present; if so, this study shall assess its condition and viability for restoration. This study shall be undertaken by a qualified architectural conservator or materials specialist with experience in historic building materials conservation.

d) Conduct historic research to ascertain the size, width, and material of the original wood siding. Restore or replace in-kind (if necessary) the original wood siding on the west façade to reinforce the historic character from the Historic District's period of significance.

The implementation of these performance criteria will ensure that the Expanded Project restores the historic character of the west façade, and appropriately complies with the *Secretary's Standards.*

2. *Rehabilitation/preservation of the main shed doors on the west façade of Pier 17, which would be held open to allow a new glass and aluminum full-height storefront to be inserted into the opening.*

The main shed doors appear to date to the period of significance, and are character-defining features of Pier 17. The Expanded Project shall maintain and preserve these doors in place.

Performance Criteria: The preservation and maintenance of these doors should adhere to the Secretary of the Interior's Guidelines for Preserving Historic Buildings, or the Guidelines for Rehabilitating Historic Buildings. New contemporary infill is acceptable, as is consistent with other rehabilitation projects in the Embarcadero Historic District. The new infill storefront shall be designed in such a way so as to ensure that the connection to the west façade provides for minimal damage to historic materials and that the new materials proposed are compatible with the resource. The Expanded Project shall:

a) Preserve and maintain the shed doors in a manner consistent with either the Secretary of the Interior's Guidelines for Preserving Historic Buildings, or the Guidelines for Rehabilitating Historic Buildings, in order to allow for reversibility in the future.

b) Design the infill window assembly to be inset from the frontal plane of the west façade, in order to maintain the shadow of the existing opening.

c) Have all connection details reviewed by a qualified historic preservation architect or consultant to assess their impact on historic features. In general, connections to historic fabric shall be minimized to protect materials.

d) Design the character/style of the new infill to be secondary to the overall historic character of the restored west façade and the character of the existing shed doors. Options for achieving this condition may include setting the new infill back from the historic door opening, selecting an appropriate material palette compatible with the historic fabric, or designing minimal joinery to allow for maximum visual access to the interior. Other options may be explored by the Project Architect, who may consult with a qualified historic preservation architecture or historic preservation specialist.

e) Design the new infill to clearly differentiate it from the existing opening.

f) Preserve the door opening's height, width, and shape. These features should remain unaltered and the main shed doors shall not be damaged.

g) Preserve the track and hardware of the historic doors.

The implementation of these performance criteria will ensure that the Expanded Project appropriately preserves the main shed doors and their historic character.

3. *Installation of new glazed infill in openings along north and south façades of Pier 17 (except for Baydelta Maritime lease space). All sliding warehouse doors on the north*

façade and roll-up metal doors on the south façade would be preserved and kept in an open position.

The Proposed Project will infill new glazed storefronts onto four bays of the north façade of Pier 17. As part of the Expanded Project, new glazed storefronts may be added to the door openings along the north and south facades. The majority of the existing historic roll-up or sliding wood doors shall remain in place even though some components might not date to the period of significance. All openings shall remain in place and be distinguished as original openings into the building. Alterations to the width of these openings along the north and south façades respectively are not allowed since these façades either retain a high degree of historic integrity or are compatible with the maritime industrial character of the resource and maintain the rhythm of solid to void that characterizes historic transit sheds.

Performance Criteria: In general, the new glazed infill openings shall be similar to the treatment of the openings in the Proposed Project (Phase 1). The Expanded Project shall:

a) Use new recessed butt-joint glazing and door systems that would be installed in the roll-up door bays on the north and south façades of Pier 17.

b) Ensure that new infill systems are sensitive to adjacent historic fabric and require minimal anchoring into the surrounding wall systems.

c) Preserve all existing metal roll-up doors and wood doors.

d) Maintain the width, height, and rhythm of the existing openings on the historic north façade and non-contributing south façade.

The implementation of these performance criteria will ensure that the Expanded Project appropriately preserves the north and south facades, and their historic maritime industrial character.

4. *Rehabilitation of canopy and walls on the south façade of Pier 17.*

The south façade, including the walls and canopy, is not a character-defining feature of Pier 17, since it was constructed after the period of significance.

Performance Criteria: The rehabilitation of the canopy shall be undertaken so as to have a minimal effect upon historic features. The Expanded Project shall:

a) Be designed and rehabilitated to minimize the effect upon the character-defining features of the building and Historic District, including the adjacent west façade and portions of the roof.

b) Maintain the canopy's industrial character similar to its current appearance.

c) Be sensitive to the attachments, and their affect upon adjacent historic fabric and the setting of the resources.

5. *Rehabilitation of clerestory windows on south facade of Pier 17 (including rehabilitation of louvers).*

The clerestory windows on the south facade are not considered to be character-defining features of Pier 17 since these windows were added as part of the 1955-56 alterations.

Performance Criteria: The rehabilitation of the clerestory windows on the south facade shall be undertaken so as to minimize the impact upon historic features. The Expanded Project shall:

a) Ensure that new windows will not detract from historic fabric through materials, profile, or scale.

b) Sensitively detail attachments and anchors to avoid damage to historic fabric. This element shall be reviewed by a qualified historic preservation architect or preservation specialist to ensure consistency with the *Secretary's Standards*.

6. *Construction of a new second floor bridge (of the same clear glass material as the "Bridge Building") between the new Bridge Building and the non-historic Pier 17 shed addition (south façade) above opening to the Bay.*

As part of the Expanded Project, a fully-glazed elevated walkway or bridge would be constructed from the second floor of the Bridge Building to provide interior access between the Bridge Building and Pier 17. Based on the limited information available, the choice of the glass material is appropriate, particularly because of its connection to the proposed Bridge Building and its contrast with Pier 17. The design also allows for visibility at the ground-floor level out to the bay from the new Valley. An important aspect to consider in the future is the connection of the bridge to the south façade of Pier 17, which is not historic.

Performance Criteria: The construction of the new bridge element shall comply with the *Secretary's Standards*, particularly Rehabilitation Standard #9. The Expanded Project shall:

a) Design the new bridge to be consistent with the Bridge Building and be clearly distinguished from the historic building in its form, materials, and detailing. This final design shall be reviewed by a qualified specialist for its compatibility with the surrounding historic fabric and district under Rehabilitation Standard #9.

b) Not intersect into the historic Pier 17 roof material or eaves.

c) Connect the new bridge to the south addition of Pier 17 such that adequate separation is provided from Pier 17's original roof form and monitor. The new bridge shall not intersect onto historic portions of the Pier 17 roof, and shall remain lower than the Pier 17 roof monitor.

d) Shall not remove any historic interior wood trusses.

e) Ensure that structural connections between the new structure and the existing building shall be reviewed by a qualified historic preservation specialist, and that installation

of seismic joints shall occur in the new portion of the building, so as to minimize the removal of historic fabric.

7. *Installation of a new seismic joint that would separate Pier 17 from the historic bulkhead wharf.*

Similar to the Project, the Expanded Project would require seismic strengthening of Pier 17. In this instance, a seismic joint is proposed in order to separate the pier from the bulkhead wharf.

Performance Criteria: The Expanded Project shall be undertaken in a manner similar to the Project. The Expanded Project shall:

a) Utilize the State Historic Building Code, where possible, and undertake seismic strengthening in the least obtrusive manner possible.

b) In addition, the seismic strengthening of the historic bulkhead wharf shall be consistent with the Port of San Francisco's Historic Preservation Review Guidelines for Pier and Bulkhead Wharf Substructures and the *Secretary's Standards*.

8. *Installation of new seismic piles and pile caps on the north apron with a new concrete deck (exact amount, size, and locations to be determined in the future).*

Pier 17 exhibits both deterioration and seismic deficiencies. The upper four feet of the piles exhibit cracking and spalling of concrete and corrosion of reinforcing steel. The typical repair of this condition is removal of damaged concrete and reinforcing followed by encasement with a reinforced concrete repair collar constructed with a leave-in-place fiberglass form. Where the current level of pile damage is within acceptable levels, repair will be deferred to the future.

The timber framed deck exhibits deterioration where the timber is exposed to weather (aprons and interior locations adjacent to exterior walls.) The typical repair is to replace damaged timber with new. The concrete encased steel beams supporting the deck have been subject to repairs in the past, which involved removal of damaged concrete encasement and treatment of the exposed steel with a protective coating. The steel framing exhibits occasional damage and the repair consists of replacing the partially concrete encased steel beams with new concrete or steel beams.

The timber superstructure exhibits deterioration of roof sheathing and siding as well as occasional truss and purlin damage. The typical repair is to replace damaged timber with new. Some truss repairs consist of steel plates and bolts.

The essential seismic deficiency of the substructure is that the existing lateral system (piles) is too flexible and the pier will undergo excessive lateral deflections under seismic loading. The retrofit strategy is to add stiffness in the form of groups of six feet diameter steel piles with concrete pile caps below the deck. Diaphragm strengthening is also required to transfer the loads from the deck to the piles.

The essential seismic deficiency of the superstructure is insufficient strength of the roof diaphragm, the truss frames, and the wood framed shear walls. The retrofit strategy is to add steel braced frames and to strengthen the roof diaphragm with plywood over timber sleepers.

Similar to the Project, the Expanded Project would add new seismic piles and pile caps on the north apron of Pier 17, along with a new concrete deck.

Performance Criteria: The Expanded Project shall be undertaken in a manner similar to the Project. The Expanded Project shall:

a) Be consistent with the Port of San Francisco's Historic Preservation Review Guidelines for Pier and Bulkhead Wharf Substructures and the *Secretary's Standards*. This element shall be reviewed in an Amended Historic Resource Evaluation Report to be completed in consultation with the Port of San Francisco's structural engineering staff in the future.

b) Ensure that any new concrete deck is at an appropriate finish elevation that will not negatively affect the historic two-story volume of the Pier shed interior.

c) Utilize the State Historic Building Code, where possible, and undertake seismic strengthening in the least obtrusive manner feasible.

d) Ensure that existing column bases remain in place or be reconstructed as necessary, if strengthening of the existing column to deck connections is required.

9. *Rehabilitation and new construction within the interior of the Pier 17 Transit Shed (including construction of interior partitions and tenant improvements similar to those in the Project).*

According to the current master plan for Pier 17, the Expanded Project would alter the interior spatial character of the Transit Shed by constructing new interior partition walls and a new mezzanine level at the east end of the building. The existing interior office partitions would be demolished, except for the historic office located at the west end. The interior would accommodate an exhibit fabrication workshop, a new restaurant, temporary exhibit space, a larger exhibit hall, classrooms, a greenhouse, and office space. A maritime tenant would continue to occupy a portion of Pier 17 as part of the Expanded Project.

Performance Criteria: The Project Sponsor shall carefully consider the open interior spatial quality, amount of daylight, and exposed structural system of the Pier 17 Transit Shed, which are all character-defining features of the Pier 17 interior. The Expanded Project shall:

a) Retain the primary character-defining features of the interior, which include the open interior volume and spatial character, as well as view corridor in the central bay, the amount of daylight, the exposed ceiling, and the interior wood trusses.

b) The Expanded Project shall seek to emphasize the building's wood-frame construction and former character of the resource by maintaining continuous open view

corridors from the west to east facades through the pier shed. By minimizing the physical subdivision of the space, and where subdivision is necessary utilizing glazed and/or transparent partitions, especially in the second story, the Expanded Project would maintain the historic interior volume and spatial character.

c) Retain interior office spaces that date to the period of significance. These office spaces shall be preserved or rehabilitated as part of the Expanded Project.

d) Retain exposed open structural system ceilings in order to highlight wood roof trusses and interior wood roof decking.

e) Install new electrical conduit and infrastructure upgrades. New electrical conduit and infrastructure upgrades shall be installed in a manner that does not damage interior wood trusses or columns.

f) New partition walls shall be detached from the structural columns so as to maintain the visual rhythm of the structural bays.

10. *Structural repairs and upgrades to the bulk wharf (including new paving). This feature would represent a new front door to the expanded museum.*

Similar to the Project, the Expanded Project would include structural repair and upgrades to the bulkhead wharf, and would include new asphalt or concrete topping over this historic feature.

Performance Criteria: New asphalt or concrete paving over the bulkhead wharf would not affect the historic feature because both materials were common surface finish materials characteristic of the Historic District's period of significance. However, the Expanded Project shall:

a) Be undertaken in a manner similar to the Proposed Project, and shall be consistent with the Port of San Francisco's Historic Preservation Review Guidelines for Pier and Bulkhead Wharf Substructures and the *Secretary's Standards*.

b) Sensitively detail the connection between the new paving and the existing wood walls of Pier 17 in order to minimize the impact on historic fabric and potential for water intrusion. This detail shall be reviewed by a qualified historic preservation specialist.

c) Ensure that doors shall not be undercut, but rather lifted or pocketed in the paving at the door location.

11. *Installation of photovoltaic panels and mechanical or electrical equipment on the Pier 17 roof.*

As mentioned in the Proposed Project description, installation of photovoltaic panels on the roof of Pier 15 will alter the historic character of the roof. Similarly, installation of photovoltaic panels on the Pier 17 roof, which is defined by a fairly simple, matte roofing

material, would alter the historic character of that roof. The photovoltaic panels would add a reflective quality to the roof.

Performance Criteria: For the Expanded Project, the photovoltaic panels shall be detailed in a manner similar to the panels on the Pier 15 roof in order to minimize impacts to the historic resource. Where possible, rooftop mechanical equipment shall be located within the interior of the building and any vents, grills, etc. for the mechanical equipment shall be located within existing openings or other locations such that visual and structural impacts are minimized. Where this is not possible and equipment must be placed in an exposed location on the roof, locations for the equipment shall be carefully studied using three-dimensional renderings, and compact low-profile HVAC units shall be utilized and located in areas that minimize visual and structural impacts to the building. The Expanded Project shall:

a) Keep HVAC equipment off of the Pier 17 roof, and organize it in one central location within the Transit Shed.

b) Minimize the number of penetrations through the historic roof fabric.

c) Provide for continuous and consolidated surfaces of photovoltaic panels. The panels shall not be sporadically placed on the roof.

d) Minimize the visibility of the photovoltaic panels from the public right-of-ways by keeping them in the same plane as the roof surface, where possible and selecting the least reflective panel possible.

The implementation of these performance criteria will ensure that the Expanded Project appropriately maintains the roof's historic character.

Overall Performance Criteria: In general, the Expanded Project shall be designed to be consistent with the Proposed Project and use similar strategies to treat historic fabric and maintain overall compatibility with the historic resource and its setting within the Historic District. The Expanded Project shall seek to rehabilitate the resource in a manner consistent with the *Secretary's Standards*. If the Expanded Project complies with the aforementioned performance criteria, the Expanded Project will have a less-than-significant impact upon the historic resource, its setting and the Historic District.

The Planning Department Environmental Review Officer (ERO) shall be responsible for monitoring the Project Sponsor's compliance with this Mitigation Measure. Because the Port is the property owner and the city agency with jurisdiction to issue building permits for construction on the waterfront, the ERO shall consult with the Port prior to making a determination that the Expanded Project has complied with this mitigation measure. The Project Sponsor shall initiate consultation with the Port prior to making application for a building permit to execute the Expanded Project scope of work, which is the subject of this Mitigation Measure. As part of the building permit pre-application consultation with the Port, the Project Sponsor shall submit an Amended Historic Resources Evaluation Report for Port review. The Amended Historic Resources Evaluation Report shall be prepared by a qualified historic preservation professional and shall analyze the consistency of the

proposed scope of work for the Expanded Project with this Mitigation Measure and the Secretary's Standards. The Port shall forward the final Amended Historic Resources Evaluation Report for the Expanded Project, along with Port's findings regarding the Expanded Project's compliance with this mitigation measure to the ERO for a final determination. ERO concurrence that the mitigation measure has been satisfied is a pre-requisite to the Port's issuance of the building permit.

Mitigation Measure M-CP-2: Archaeological Resources

M-CP-2: Based on the reasonable potential that archaeological resources may be present within the Project Site, the following Mitigation Measures shall be undertaken to avoid any potentially significant adverse effect from the Project and Expanded Project on buried or submerged historical resources. The project sponsor shall distribute the Planning Department archeological resource "ALERT" sheet to the project prime contractor; to any project subcontractor (including demolition, excavation, grading, foundation, pile driving, etc. firms); or utilities firm involved in soils disturbing activities within the project site. Prior to any soils disturbing activities being undertaken each contractor is responsible for ensuring that the "ALERT" sheet is circulated to all field personnel including, machine operators, field crew, pile drivers, supervisory personnel, etc. The project sponsor shall provide the Environmental Review Officer (ERO) with a signed affidavit from the responsible parties (prime contractor, subcontractor(s), and utilities firm) to the ERO confirming that all field personnel have received copies of the Alert Sheet.

Should any indication of an archeological resource be encountered during any soils disturbing activity of the project, the project Head Foreman and/or project sponsor shall immediately notify the ERO and shall immediately suspend any soils disturbing activities in the vicinity of the discovery until the ERO has determined what additional measures should be undertaken.

If the ERO determines that an archeological resource may be present within the Project Site, the project sponsor shall retain the services of a qualified archeological consultant. The archeological consultant shall advise the ERO as to whether the discovery is an archeological resource, retains sufficient integrity, and is of potential scientific/historical/cultural significance. If an archeological resource is present, the archeological consultant shall identify and evaluate the archeological resource. The archeological consultant shall make a recommendation as to what action, if any, is warranted. Based on this information, the ERO may require, if warranted, specific additional measures to be implemented by the project sponsor.

Measures might include: preservation in situ of the archeological resource; an archaeological monitoring program; or an archeological testing program. If an archeological monitoring program or archeological testing program is required, it shall be consistent with the Major Environmental Analysis (MEA) division guidelines for such programs. The ERO may also require that the project sponsor immediately implement a site security program if the archeological resource is at risk from vandalism, looting, or other damaging actions.

The project archeological consultant shall submit a Final Archeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archeological resource and describing the archeological and historical research methods employed in the archeological monitoring/data recovery program(s) undertaken. Information that may put at risk any archeological resource shall be provided in a separate removable insert within the final report.

Copies of the Draft FARR shall be sent to the ERO for review and approval. Once approved by the ERO, copies of the FARR shall be distributed as follows: California Archaeological Site Survey Northwest Information Center (NWIC) shall receive one (1) copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Major Environmental Analysis division of the Planning Department shall receive three copies of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest or interpretive value, the ERO may require a different final report content, format, and distribution than that presented above

NOISE

Significant noise impacts are discussed in FEIR Section III.F.

Mitigation Measure M-NO-1: Pile Driving During Construction

M-NO-1: The Project Sponsor shall require the construction contractor for the Project and Expanded Project to use noise-reducing pile driving techniques such as installing intake and exhaust mufflers on pile driving equipment, vibrating piles into place when feasible, and installing shrouds around the pile driving hammer where feasible.

AIR QUALITY

Significant air quality impacts are discussed in FEIR Section III.G.

Mitigation Measure M-AQ-1: Construction Air Quality--Diesel Emissions

M-AQ-1: The Project Sponsor shall also require the Project contractor(s) to maintain and operate construction equipment so as to minimize exhaust emissions of particulates and other pollutants. The construction contractor shall, to the extent possible, be required to implement feasible measures to reduce diesel particulate matter in construction equipment and vehicle exhaust, such as use of late model or retrofitted equipment, use of alternative fuels or fuel additives, and/or use of particulate traps on diesel engines. Without limitation, the contractor shall be required to maintain properly tuned equipment and to prohibit idling motors when equipment is not in use or when trucks are waiting in queues, and implementation of specific maintenance programs to reduce emissions for equipment that would be in frequent use for much of the construction period.

BIOLOGICAL RESOURCES

Significant biological resource impacts are discussed in FEIR Section III.H.

Mitigation Measure M-BI-1: Western Gulls

M-BI-1: To the extent feasible, the Project Sponsor will not undertake construction or demolition activities between March 1 and August 1. If construction occurs within the nesting season (March 1 through August 1), the Project Sponsor shall implement one of the following measures:

a. Prior to the nesting season, all potential nesting areas on the roofs of the pier and Connector Building can be netted to prevent gulls from nesting there. An avian biologist shall be present when the netting is installed. The size of the potential nesting area presents some unique challenges, but bird netting is available in sizes large enough to cover the area required. The netting materials to be used are specifically developed for bird exclusion. The netting shall be inspected weekly by an avian biologist to ensure that the barrier is functioning properly.

b. An alternate method to prevent gulls from nesting on the roof would be to set up a grid of wires (no more than 1 foot squares) across the nesting area, approximately 1 foot or more above the surface. The wires would have to be thin enough to not provide a stable surface for gulls to perch on, but strong enough that they do not break. An avian biologist shall be present when the wires are installed. The grid wires shall be inspected weekly by an avian biologist to ensure that the barrier is functioning properly.

c. If netting the entire potential nesting area is not feasible, netting could be installed over smaller areas covering only where the birds are known to nest, followed by hazing of the areas outside the netting. An avian biologist shall be present when the netting is installed. Hazing is the intentional disturbance and removal of nests prior to egg laying to prevent birds from nesting during the construction period. Beginning at least two weeks prior to the onset of nesting season, hazing would require that one or more avian biologists inspect the roof at least every other day with a broom or leaf blower to disrupt any nests outside the netted areas before they have eggs in them (once they have eggs, they can't be disturbed). There must be no more than two days between visits, and hazing must be repeated throughout the nesting season, while construction is occurring.

Mitigation Measure M-BI-2: Pile Driving Noise Measures for Aquatic Species

M-BI-2: The Project Sponsor shall plan pile-driving to minimize potential impact on aquatic species, including:

• When finalizing Project design, reduce the number and size of piles, if feasible, and use wood or other solid piles to the extent feasible.

• Drive piles with a vibratory device instead of an impact hammer to the greatest extent possible.

• Schedule pile-driving to occur between June 1 and November 30 (Table III.H 2, p. III.H-19).

• Utilize a cushioning block between the hammer head and pile.

• Drive piles only during periods of minimal current (slack tide).

• If marine mammals are observed within 1,000 feet of the Project Site, allow them to completely exit the Project Site before pile driving resumes.

During pile-driving, the Project Sponsor shall monitor underwater sound level in accordance with a monitoring plan approved by NOAA Fisheries. Depending on the pile specifics, (material, size, hammer, etc) pile-driving may exceed limits on peak underwater sound pressure (for single strikes) or accumulated sound exposure level (for multiple strikes). Project Sponsor shall implement noise attenuation measures (e.g. bubble curtain or air barrier) to reduce underwater sound pressure to below applicable thresholds: 206 dB referenced to 1 micropascal for peak pressure (single strike) and 183 dB referenced to 1 micropascal squared-second for accumulated sound exposure level (multiple strikes). It may be necessary to restrict pile driving to periods of low tide to minimize the in-water portion of the pile and therefore the sound created.

If seasonal or tidally-based work restrictions are not feasible, it will be necessary to install an air barrier between the pile and the surrounding water. This approach effectively disrupts the sound pressure as it travels from water to air then back to water. One way to do this is encase the new piles within a slightly larger hollow pile and pump air into the gap. Alternatively, bubble curtains created by pipes placed on the seabed where the pile enters the ground also effectively disrupt pressure waves.

II. MITIGATION AND MONITORING AND REPORTING PROGRAM

(See next page)

EXPLORATORIUM RELOCATION PROJECT
MITIGATION MONITORING AND REPORTING PROGRAM

MITIGATION MEASURES

Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Mitigation Action	Monitoring/ Reporting Responsibility	Monitoring Schedule
CULTURAL RESOURCES					
Mitigation Measure M-CP-1: Historical Resources					
Mitigation Measure M-CP-1 shall be implemented to ensure that the design of the Expanded Project is consistent with the Secretary of the Interior's Standards for Rehabilitation. Due to the length of this measure, it is included below this MMRP table (page 25).	Port of San Francisco	Prior to submittal of the building permit application for the Expanded Project.	Preapplication consultation between the Port and the Project Sponsor. The Project Sponsor shall submit an Amended Historic Resources Evaluation Report, which analyzes the Expanded Project scope of work for consistency with the Secretary's Standards and M-CP-1 for Port review. The Port shall forward the Amended Historic Resources Evaluation with documentation of the Port's findings regarding the Expanded Project's consistency with this mitigation measure and performance criteria as described on DEIR pp. III.D-34 through III.D-48 to the Planning Department's Environmental Review Officer (ERO). The ERO must concur with the findings of the Port and satisfaction of this mitigation measure.	Project Sponsor, Port of San Francisco, and the Planning Department's ERO.	Prior to issuance of the building permit for the Expanded Project.

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Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Mitigation Action	Monitoring/ Reporting Responsibility	Monitoring Schedule
Mitigation Measure M-CP-2: Archaeological Resources					
Based on the reasonable potential that archaeological resources may be present within the Project Site, the following Mitigation Measures shall be undertaken to avoid any potentially significant adverse effect from the Project and Expanded Project on buried or submerged historical resources. The project sponsor shall distribute the Planning Department archeological resource "ALERT" sheet to the project prime contractor; to any project subcontractor (including demolition, excavation, grading, foundation, pile driving, etc. firms); or utilities firm involved in soils disturbing activities within the project site. Prior to any soils disturbing activities being undertaken each contractor is responsible for ensuring that the "ALERT" sheet is circulated to all field personnel including, machine operators, field crew, pile drivers, supervisory personnel, etc.	Project Sponsor	Prior to Port issuance of any permit for soil disturbing activities.	Distribute Planning Department Archeological Resource "ALERT" sheet to Prime Contractor, sub-contractors and utilities firms.	Project Sponsor, archaeologist, Port, and the Planning Department's ERO.	Prior to Port issuance of any permit for soil disturbing activities.
The project sponsor shall provide the Environmental Review Officer (ERO) with a signed affidavit from the responsible parties (prime contractor, subcontractor(s), and utilities firm) to the ERO confirming that all field personnel have received copies of the Alert Sheet.	Project Sponsor			Submit signed affidavit of distribution to ERO.	Following distribution of "ALERT" sheet but prior to Port issuance of any permit for soils disturbing activities.
Should any indication of an archeological resource be encountered during any soils disturbing activity of the project, the project Head Foreman and/or project sponsor shall immediately notify the ERO and shall immediately suspend any soils disturbing activities in the vicinity of the discovery until the ERO has determined what additional measures should be undertaken.	Head Foreman and/or Project Sponsor	In case of accidental discovery.	Suspend any soils disturbing activity.	Notify ERO of accidental discovery.	
If the ERO determines that an archeological resource may be present within the Project Site, the project sponsor shall retain the services of a qualified archeological consultant. The archeological consultant shall advise the ERO as to whether the discovery is an archeological resource, retains sufficient integrity, and is of potential scientific/historical/ cultural	Project Sponsor	In case of accidental discovery.	If ERO determines an archeological resource may be present, services of a qualified archeological consultant to be retained.		

MITIGATION MEASURES

Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Mitigation Action	Monitoring/ Reporting Responsibility	Monitoring Schedule
significance.					
If an archeological resource is present, the archeological consultant shall identify and evaluate the archeological resource. The archeological consultant shall make a recommendation as to what action, if any, is warranted. Based on this information, the ERO may require, if warranted, specific additional measures to be implemented by the project sponsor.	Archeological consultant		Identify and evaluate archeological resources.	Make recommendation to the ERO.	
Measures might include: preservation in situ of the archeological resource; an archaeological monitoring program; or an archeological testing program. If an archeological monitoring program or archeological testing program is required, it shall be consistent with the Major Environmental Analysis (MEA) division guidelines for such programs. The ERO may also require that the project sponsor immediately implement a site security program if the archeological resource is at risk from vandalism, looting, or other damaging actions.	Project Sponsor	After determination by the ERO of appropriate action to be implemented following evaluation of accidental discovery.	Implementation of Archeological measure required by ERO.		
The project archeological consultant shall submit a Final Archeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archeological resource and describing the archeological and historical research methods employed in the archeological monitoring/data recovery program(s) undertaken. Information that may put at risk any archeological resource shall be provided in a separate removable insert within the final report.	Project Sponsor	Following completion of any required archeological field program.	Submittal of Draft/Final FARR to ERO and Port.		
Copies of the Draft FARR shall be sent to the ERO for review and approval. Once approved by the ERO, copies of the FARR shall be distributed as follows: California Archaeological Site Survey Northwest Information Center (NWIC) shall receive one (1) copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Major Environmental Analysis division of the Planning Department shall receive three copies of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical	Project Sponsor		Distribution of Final FARR.		

Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Mitigation Action	Monitoring/ Reporting Responsibility	Monitoring Schedule
Resources. In instances of high public interest or interpretive value, the ERO may require a different final report content, format, and distribution than that presented above.					
NOISE					
Mitigation Measure M-NO-1: Pile Driving Construction Activities					
The Project Sponsor shall require the construction contractor for the Project and Expanded Project to use noise-reducing pile driving techniques such as installing intake and exhaust mufflers on pile driving equipment, vibrating piles into place when feasible, and installing shrouds around the pile driving hammer where feasible.	Project Sponsor/ Construction contractor(s)	During pile-driving	Employ noise-reducing pile driving techniques.	Project Sponsor	During Construction
AIR QUALITY					
Mitigation Measure M-AQ-1: Construction Air Quality – Diesel Emissions					
The Project Sponsor shall also require the Project contractor(s) to maintain and operate construction equipment so as to minimize exhaust emissions of particulates and other pollutants. The construction contractor shall, to the extent possible, be required to implement feasible measures to reduce diesel particulate matter in construction equipment and vehicle exhaust, such as use of late model or retrofitted equipment, use of alternative fuels or fuel additives, and/or use of particulate traps on diesel engines. Without limitation, the contractor shall be required to maintain properly tuned equipment and to prohibit idling motors when equipment is not in use or when trucks are waiting in queues, and implementation of specific maintenance programs to reduce emissions for equipment that would be in frequent use for much of the construction period.	Project Sponsor/ Project contractor(s)	During construction	Maintain and operate construction equipment so as to minimize exhaust emissions of particulates and other pollutants.	Project Sponsor	During Construction
BIOLOGICAL RESOURCES					
Mitigation Measure M-BI-1: Western Gulls					
To the extent feasible, the Project Sponsor will not undertake construction or demolition activities between March 1 and August 1. If construction occurs within the nesting season (March 1 through August 1), the Project	Project Sponsor	Prior to construction during the nesting	No construction or demolition activities between March 1st to August 1st.	Project Sponsor	During construction

MITIGATION MEASURES

Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Mitigation Action	Monitoring/ Reporting Responsibility	Monitoring Schedule
Sponsor shall implement one of the following measures:		season.			
a. Prior to the nesting season, all potential nesting areas on the roofs of the pier and Connector Building can be netted to prevent gulls from nesting there. An avian biologist shall be present when the netting is installed. The size of the potential nesting area presents some unique challenges, but bird netting is available in sizes large enough to cover the area required. The netting materials to be used are specifically developed for bird exclusion. The netting shall be inspected weekly by an avian biologist to ensure that the barrier is functioning properly.	Project Sponsor and avian biologist	Prior to construction during the nesting season.	Installation of netting materials	Project Sponsor and Avian biologist	Inspected weekly throughout construction
b. An alternate method to prevent gulls from nesting on the roof would be to set up a grid of wires (no more than 1 foot squares) across the nesting area, approximately 1 foot or more above the surface. The wires would have to be thin enough to not provide a stable surface for gulls to perch on, but strong enough that they do not break. An avian biologist shall be present when the wires are installed. The grid wires shall be inspected weekly by an avian biologist to ensure that the barrier is functioning properly.	Project Sponsor and avian biologist	Prior to construction during the nesting season.	Installation of grid wires	Project Sponsor and Avian biologist	Inspected weekly throughout construction.
c. If netting the entire potential nesting area is not feasible, netting could be installed over smaller areas covering only where the birds are known to nest, followed by hazing of the areas outside the netting. An avian biologist shall be present when the netting is installed. Hazing is the intentional disturbance and removal of nests prior to egg laying to prevent birds from nesting during the construction period. Beginning at least two weeks prior to the onset of nesting season, hazing would require that one or more avian biologists inspect the roof at least every other day with a broom or leaf blower to disrupt any nests outside the netted areas before they have eggs in them (once they have eggs, they can't be disturbed). There must be no more than two days between visits, and hazing must be repeated throughout the nesting season, while construction is occurring.	Project Sponsor and avian biologist	Two weeks prior to the onset of the nesting season.	Installation of netting over smaller areas covering only where the birds are known to nest, followed by hazing.	Project Sponsor and Avian biologist	No more than two days between visits throughout the nesting season while construction is occurring.

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MITIGATION MEASURES

Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Mitigation Action	Monitoring/ Reporting Responsibility	Monitoring Schedule
Mitigation Measure M-BI-2: Pile-driving Noise Measures for Aquatic Species					
The Project Sponsor shall plan pile-driving to minimize potential impact on aquatic species, including: • When finalizing Project design, reduce the number and size of piles, if feasible, and use wood or other solid piles to the extent feasible. • Drive piles with a vibratory device instead of an impact hammer to the greatest extent possible. • Schedule pile-driving to occur between June 1 and November 30. • Utilize a cushioning block between the hammer head and pile. • Drive piles only during periods of minimal current (slack tide). • If marine mammals are observed within 1,000 feet of the Project Site, allow them to completely exit the Project Site before pile driving resumes.	Project Sponsor	During project design and construction.	Minimize potential pile-driving impacts.	Project Sponsor	Throughout construction
During pile-driving, the Project Sponsor shall monitor underwater sound level in accordance with a monitoring plan approved by NOAA Fisheries. Depending on the pile specifics, (material, size, hammer, etc) pile-driving may exceed limits on peak underwater sound pressure (for single strikes) or accumulated sound exposure level (for multiple strikes). Project Sponsor shall implement noise attenuation measures (e.g. bubble curtain or air barrier) to reduce underwater sound pressure to below applicable thresholds: 206 dB referenced to 1 micropascal for peak pressure (single strike) and 183 dB referenced to 1 micropascal squared-second for accumulated sound exposure level (multiple strikes). It may be necessary to restrict pile driving to periods of low tide to minimize the in-water portion of the pile and therefore the sound created.	Project Sponsor	Prior to and during pile-driving	Develop underwater sound monitoring plan and obtain NOAA Fisheries approval. Submit approved monitoring plan to Port prior to beginning pile-driving. Monitor underwater sound levels during pile driving and implement noise attenuation measures as-needed based on monitoring results.	Project Sponsor	During pile-driving activities

MITIGATION MEASURES

Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Mitigation Action	Monitoring/ Reporting Responsibility	Monitoring Schedule
If seasonal or tidally-based work restrictions are not feasible, it will be necessary to install an air barrier between the pile and the surrounding water. This approach effectively disrupts the sound pressure as it travels from water to air then back to water. One way to do this is encase the new piles within a slightly larger hollow pile and pump air into the gap. Alternatively, bubble curtains created by pipes placed on the seabed where the pile enters the ground also effectively disrupt pressure waves.	Project Sponsor	During pile-driving	Installation of air barrier if other restrictions are not feasible.	Project Sponsor	During pile-driving

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IMPROVEMENT MEASURES

Improvement Measures	Responsibility for Implementation	Schedule	Action	Monitoring/ Reporting Responsibility	Monitoring Schedule
CULTURAL RESOURCES					
Improvement Measure I-CP-1					
Prior to issuance of a demolition permit, the Project Sponsor shall prepare archival quality photographic documentation of the pre-1929 Office Addition at Pier 17. The documentation shall include the following elements and create an archival record of the historic feature generally consistent with the Historic American Buildings Survey (HABS) program: • Archival quality black and white photographs; • An architectural description of the feature; and • Preparation of measured drawings to document the existing condition of the feature. The archival record shall be prepared by a qualified architectural historian in consultation with the Port of San Francisco and the historic preservation staff of the San Francisco Planning Department and shall be distributed to: • San Francisco Planning Department; • Port of San Francisco; and • San Francisco Main Public Library	Project Sponsor	Prior to Port issuance of a demolition permit.	Archival record of pre-1929 office addition.	Project Sponsor and qualified architectural historian.	Prior to Port issuance of a demolition permit.

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IMPROVEMENT MEASURES

Improvement Measures	Responsibility for Implementation	Schedule	Action	Monitoring/ Reporting Responsibility	Monitoring Schedule
TRANSPORTATION AND CIRCULATION					
Improvement Measure I-TR-1: The City of San Francisco Bicycle Plan Update					
The City of San Francisco Bicycle Plan Update: Supplemental Design Guidelines include the use of colored bicycle lanes to further enhance the bicycle environment and safety. The Federal Highway Administration (FHWA) recently approved a study proposed by SFMTA of solid and dashed green pavement for bicycle lanes. If the use of colored pavement materials is approved by the FHWA and the California Traffic Control Device Committee (CTCDC), San Francisco may add colored pavement materials to selected bicycle lanes. The northbound stretch of the bicycle lane in front of the Project Site could potentially be a candidate for implementation of the colored pavement materials treatment. If the use of colored pavement materials is approved by the FHWA and CTCDC and if SFMTA deems appropriate, the Project Sponsor could apply colored pavement materials to Bicycle Route #5 in front of the Project Site.	Project Sponsor	Included in Project design prior to Port issuance of a building permit and during final roadway striping of curb indents or implemented subsequently to the FHWA and CTCDC approval of colored paving materials.	Application of colored pavement materials in the bike lane in front of the Project Site.	San Francisco Metropolitan Transportation Authority (SFMTA).	Approval from SFMTA prior to issuance of a Port building permit or after the FHWA and the CTCDC approve the use of colored paving materials.
Improvement Measure I-TR-2: Increased width of Bus Loading/Unloading Curb Indent					
The field trip/special event bus loading/unloading space is designed to include a wider than standard (9 feet versus 8.5 feet) curb indent as well as the provision of 10 feet of clearance between each bus. While the proposed design is adequate, the Project Sponsor could increase the width of the bus loading/unloading curb indent to 9.5 feet in order to allow for more bus maneuverability and help prevent buses from possibly encroaching onto the bicycle lane. Implementation of the Improvement Measure would require narrowing the two northbound traffic lanes on the Embarcadero by 0.5 feet, from 10.5 feet to 10.25 feet along the Project Site. Implementation of this Improvement Measure would be subject to SFMTA approval.	Project Sponsor	Included in Project design prior to Port issuance of a building permit and during final roadway striping of curb indents.	Increasing the width of the bus loading/unloading space in front of the Project Site.	SFMTA	Approval from SFMTA prior to Port issuance of a building permit.

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IMPROVEMENT MEASURES

Improvement Measures	Responsibility for Implementation	Schedule	Action	Monitoring/ Reporting Responsibility	Monitoring Schedule
Improvement Measure I-TR-3: Construction Traffic					
Any construction traffic occurring between 7:00 a.m. and 9:00 a.m. or between 3:30 p.m. and 6:00 p.m. would coincide with peak hour traffic and could temporarily impede traffic and transit flow, although it would not be considered a significant impact. Limiting truck movements to the hours between 9:00 a.m. and 3:30 p.m. (or other times, if approved by DPT) would minimize disruption of the general traffic flow on adjacent streets during the AM and PM peak periods. The Project Sponsor and construction contractor(s) would meet with the Traffic Engineering Division of the Department of Parking and Traffic (DPT), the Port, the Fire Department, Muni, and the Planning Department to determine feasible measures to reduce traffic congestion, including potential transit disruption and pedestrian circulation impacts during construction of the Project and the Expanded Project.	Project Sponsor/ Construction contractor (s)	Prior to commencement of construction activities for the Project and Expanded Project.	Meet with Traffic Engineering Division of the DPT, the Port, the Fire Department, Muni, and the Planning Department to determine feasible measures to reduce traffic congestion, including potential transit disruption and pedestrian circulation impacts during construction.	DPT and Port of San Francisco	During Construction

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MITIGATION MEASURE M-CPI-1

The following mitigation measure outlines a series of design and performance criteria relative to the Expanded Project that would reduce potential significant impacts to the historic resource to a less-than-significant level.

The Port of San Francisco (Port) would require the Expanded Project to comply with the Secretary of the Interior's Standards for Rehabilitation (the *Secretary's Standards*) whether or not tax credits are sought. In addition, if the Project Sponsor seeks Federal Historic Preservation Tax Credits for the Expanded Project, then the Expanded Project must comply with the *Secretary's Standards* to qualify for the tax credits. If the Expanded Project meets the design and performance criteria set forth below, the Expanded Project will comply with the *Secretary's Standards*. Based on the preliminary conceptual drawings the Expanded Project, subject to additional refinement, has the potential to meet the performance criteria. The Expanded Project shall, at a minimum, incorporate these performance criteria into the design. The Expanded Project may also pursue alternative approaches that minimize the potential to cause adverse changes in Pier 17's character-defining features and historic character. If there are multiple means and methods for complying with the performance criteria, these alternatives shall be carefully evaluated by a qualified historic preservation architect or consultant who meets or exceeds the Secretary of the Interior's Professional Qualification Standards in Historic Architecture, and the alternative that provides the greatest level of consistency with the criteria and on balance has the least impact shall be implemented.

The Expanded Project shall preserve, rehabilitate, or restore the previously-defined character defining features of Pier 17, which include, at a minimum:

- Building profile, roof configuration, and relationship to surrounding site;
- Substructure: wood deck resting on wood piles (piles were encased in reinforced concrete cylinders and the space between the timber and concrete was filled with sand, or cement grout –outer piles only);
- Transit shed wood-frame construction (stud-frame walls, wood plank gable roof, and interior roof trusses);
- Roof configuration, including roof monitor, monitor windows frames, pattern, size, and detailing;
- North façade, including v-groove wood siding, and wood warehouse doors;
- East façade, including v-groove wood siding, gable ends, signage, double wood warehouse doors, and monitor end;

- West façade profile (only 96 ft on north end), (excluding the 1929 office addition which will be demolished in the Project) not including 1955-56 Addition and central door opening (altered in 1958);
- Central historic wood cargo doors on the west façade;
- Open interior volume and spatial character, including pier shed, exposed ceilings, wood roof decking, wooden trusses and structural columns;
- Interior office at west end;
- Concrete pier deck;
- Historic restroom facilities in Pier 17 shed (originally identified as the Stevedore's toilet);
- Pier substructure and supporting piles;
- Interior rail spur (located along center bay); and
- Foghorn housing at east end of roof gable.

As stated in the Expanded Project Description, the Project Sponsor may decide to expand the museum into Pier 17 in the future. The Project Sponsor has developed a master plan for the Exploratorium, which preliminarily outlines the intended uses and conceptual design. The Expanded Project would change the use of most of Pier 17 from light industrial/maritime to educational/museum/retail uses, although a small portion would be retained for maritime use by Baydelta Maritime. However, the basic height and bulk of Pier 17 under the Expanded Project shall remain the same as under current conditions. The Project Sponsor and the historic preservation architect shall consult with the Port staff prior to seeking Port Building Permits. The historic preservation architect shall prepare a written assessment of the project scope of work for consistency with the Secretary of the Interior's Standards for the Treatment of Historic Properties and secure written authorization from the Port of San Francisco to proceed to develop the conceptual architectural plans into the a set of design development-level detailed architectural plans.

Based upon the current description of the Expanded Project, the following categories of performance criteria have been outlined, in order to sensitively address the historic fabric:

1. *Restoration of west façade of Pier 17 (including removal of existing plaster; restoration of original wood siding; and reconstruction of original wood windows).*

   Under the Expanded Project, the west façade of Pier 17 would be restored back to its original condition based upon physical evidence, including but not limited to, the original architectural drawings and historic photographs. This work would include the removal of the existing stucco finish (installed in 1958 and considered a non-

contributing finish), restoration or in-kind-replacement of the original wood siding, and reconstruction of the original wood-sash windows. Currently, the windows consist of non-historic aluminum-sash replacements. As part of this work, the main doors would be refurbished and preserved in place (further detail provided under Performance Criteria #2). These doors would be anchored into an open position, and a new glazed storefront system would be installed. The character-defining features on this façade, including the building profile and main doors, would be rehabilitated and not affected by these proposed alterations.

Performance Criteria: For this aspect of the Expanded Project, the restoration shall include, at a minimum, the following components, which shall be designed and undertaken consistently with the *Secretary's Standards* by a qualified historic preservation architect with experience in restoration. The Expanded Project shall:

a) Reinforce the building's historic character by restoring elements which were removed or extensively altered between 1955 and 1956, including the original wood siding and woodsash windows.

b) Restore original wood-sash windows according to the original architectural drawings and historic photographs. These windows should be restored to match the original profile, sash configuration, operability and material.

c) Examine the underlayment of the stucco exterior to assess if the original wood siding is still present; if so, this study shall assess its condition and viability for restoration. This study shall be undertaken by a qualified architectural conservator or materials specialist with experience in historic building materials conservation.

d) Conduct historic research to ascertain the size, width, and material of the original wood siding. Restore or replace in-kind (if necessary) the original wood siding on the west façade to reinforce the historic character from the Historic District's period of significance.

The implementation of these performance criteria will ensure that the Expanded Project restores the historic character of the west façade, and appropriately complies with the *Secretary's Standards*.

2. *Rehabilitation/preservation of the main shed doors on the west façade of Pier 17, which would be held open to allow a new glass and aluminum full-height storefront to be inserted into the opening.*

The main shed doors appear to date to the period of significance, and are character-defining features of Pier 17. The Expanded Project shall maintain and preserve these doors in place.

Performance Criteria: The preservation and maintenance of these doors should adhere to the Secretary of the Interior's Guidelines for Preserving Historic Buildings, or the Guidelines for Rehabilitating Historic Buildings. New contemporary infill is acceptable, as is consistent with other rehabilitation projects in the Embarcadero Historic District. The new infill storefront shall be designed in such a way so as to ensure that the connection to the west façade provides for minimal damage to historic materials and that the new materials proposed are compatible with the resource. The Expanded Project shall:

a) Preserve and maintain the shed doors in a manner consistent with either the Secretary of the Interior's Guidelines for Preserving Historic Buildings, or the Guidelines for Rehabilitating Historic Buildings, in order to allow for reversibility in the future.

b) Design the infill window assembly to be inset from the frontal plane of the west façade, in order to maintain the shadow of the existing opening.

c) Have all connection details reviewed by a qualified historic preservation architect or consultant to assess their impact on historic features. In general, connections to historic fabric shall be minimized to protect materials.

d) Design the character/style of the new infill to be secondary to the overall historic character of the restored west façade and the character of the existing shed doors. Options for achieving this condition may include setting the new infill back from the historic door opening, selecting an appropriate material palette compatible with the historic fabric, or designing minimal joinery to allow for maximum visual access to the interior. Other options may be explored by the Project Architect, who may consult with a qualified historic preservation architecture or historic preservation specialist.

e) Design the new infill to clearly differentiate it from the existing opening.

f) Preserve the door opening's height, width, and shape. These features should remain unaltered and the main shed doors shall not be damaged.

g) Preserve the track and hardware of the historic doors.

The implementation of these performance criteria will ensure that the Expanded Project appropriately preserves the main shed doors and their historic character.

3. *Installation of new glazed infill in openings along north and south façades of Pier 17 (except for Baydelta Maritime lease space). All sliding warehouse doors on the north façade and roll-up metal doors on the south façade would be preserved and kept in an open position.*

The Proposed Project will infill new glazed storefronts onto four bays of the north façade of Pier 17. As part of the Expanded Project, new glazed storefronts may be added to the door openings along the north and south facades. The majority of the existing historic roll-up or sliding wood doors shall remain in place even though some components might not date to the period of significance. All openings shall remain in place and be distinguished as original openings into the building. Alterations to the width of these openings along the north and south façades respectively are not allowed since these façades either retain a high degree of historic integrity or are compatible with the maritime industrial character of the resource and maintain the rhythm of solid to void that characterizes historic transit sheds.

Performance Criteria: In general, the new glazed infill openings shall be similar to the treatment of the openings in the Proposed Project (Phase 1). The Expanded Project shall:

a) Use new recessed butt-joint glazing and door systems that would be installed in the roll-up door bays on the north and south façades of Pier 17.

b) Ensure that new infill systems are sensitive to adjacent historic fabric and require minimal anchoring into the surrounding wall systems.

c) Preserve all existing metal roll-up doors and wood doors.

d) Maintain the width, height, and rhythm of the existing openings on the historic north façade and non-contributing south façade.

The implementation of these performance criteria will ensure that the Expanded Project appropriately preserves the north and south facades, and their historic maritime industrial character.

4. *Rehabilitation of canopy and walls on the south façade of Pier 17.*

The south façade, including the walls and canopy, is not a character-defining feature of Pier 17, since it was constructed after the period of significance.

Performance Criteria: The rehabilitation of the canopy shall be undertaken so as to have a minimal effect upon historic features. The Expanded Project shall:

a) Be designed and rehabilitated to minimize the effect upon the character-defining features of the building and Historic District, including the adjacent west façade and portions of the roof.

b) Maintain the canopy's industrial character similar to its current appearance.

c) Be sensitive to the attachments, and their affect upon adjacent historic fabric and the setting of the resources.

5. *Rehabilitation of clerestory windows on south facade of Pier 17 (including rehabilitation of louvers).*

The clerestory windows on the south facade are not considered to be character-defining features of Pier 17 since these windows were added as part of the 1955-56 alterations.

Performance Criteria: The rehabilitation of the clerestory windows on the south facade shall be undertaken so as to minimize the impact upon historic features. The Expanded Project shall:

a) Ensure that new windows will not detract from historic fabric through materials, profile, or scale.

b) Sensitively detail attachments and anchors to avoid damage to historic fabric. This element shall be reviewed by a qualified historic preservation architect or preservation specialist to ensure consistency with the Secretary's Standards.

6. *Construction of a new second floor bridge (of the same clear glass material as the "Bridge Building") between the new Bridge Building and the non-historic Pier 17 shed addition (south façade) above opening to the Bay.*

As part of the Expanded Project, a fully-glazed elevated walkway or bridge would be constructed from the second floor of the Bridge Building to provide interior access between the Bridge Building and Pier 17. Based on the limited information available, the choice of the glass material is appropriate, particularly because of its connection to the proposed Bridge Building and its contrast with Pier 17. The design also allows for visibility at the ground-floor level out to the bay from the new Valley. An important aspect to consider in the future is the connection of the bridge to the south façade of Pier 17, which is not historic.

Performance Criteria: The construction of the new bridge element shall comply with the *Secretary's Standards,* particularly Rehabilitation Standard #9. The Expanded Project shall:

a) Design the new bridge to be consistent with the Bridge Building and be clearly distinguished from the historic building in its form, materials, and detailing. This final design shall be reviewed by a qualified specialist for its compatibility with the surrounding historic fabric and district under Rehabilitation Standard #9.

b) Not intersect into the historic Pier 17 roof material or eaves.

c) Connect the new bridge to the south addition of Pier 17 such that adequate separation is provided from Pier 17's original roof form and monitor. The new bridge shall not intersect onto historic portions of the Pier 17 roof, and shall remain lower than the Pier 17 roof monitor.

d) Shall not remove any historic interior wood trusses.

e) Ensure that structural connections between the new structure and the existing building shall be reviewed by a qualified historic preservation specialist, and that installation of seismic joints shall occur in the new portion of the building, so as to minimize the removal of historic fabric.

7. *Installation of a new seismic joint that would separate Pier 17 from the historic bulkhead wharf.*

Similar to the Project, the Expanded Project would require seismic strengthening of Pier 17. In this instance, a seismic joint is proposed in order to separate the pier from the bulkhead wharf.

Performance Criteria: The Expanded Project shall be undertaken in a manner similar to the Project. The Expanded Project shall:

a) Utilize the State Historic Building Code, where possible, and undertake seismic strengthening in the least obtrusive manner possible.

b) In addition, the seismic strengthening of the historic bulkhead wharf shall be consistent with the Port of San Francisco's Historic Preservation Review Guidelines for Pier and Bulkhead Wharf Substructures and the Secretary's Standards.

8. *Installation of new seismic piles and pile caps on the north apron with a new concrete deck (exact amount, size, and locations to be determined in the future).*

Pier 17 exhibits both deterioration and seismic deficiencies. The upper four feet of the piles exhibit cracking and spalling of concrete and corrosion of reinforcing steel. The typical repair of this condition is removal of damaged concrete and reinforcing followed by encasement with a reinforced concrete repair collar constructed with a leave-in-place

fiberglass form. Where the current level of pile damage is within acceptable levels, repair will be deferred to the future.

The timber framed deck exhibits deterioration where the timber is exposed to weather (aprons and interior locations adjacent to exterior walls.) The typical repair is to replace damaged timber with new. The concrete encased steel beams supporting the deck have been subject to repairs in the past, which involved removal of damaged concrete encasement and treatment of the exposed steel with a protective coating. The steel framing exhibits occasional damage and the repair consists of replacing the partially concrete encased steel beams with new concrete or steel beams.

The timber superstructure exhibits deterioration of roof sheathing and siding as well as occasional truss and purlin damage. The typical repair is to replace damaged timber with new. Some truss repairs consist of steel plates and bolts.

The essential seismic deficiency of the substructure is that the existing lateral system (piles) is too flexible and the pier will undergo excessive lateral deflections under seismic loading. The retrofit strategy is to add stiffness in the form of groups of six feet diameter steel piles with concrete pile caps below the deck. Diaphragm strengthening is also required to transfer the loads from the deck to the piles.

The essential seismic deficiency of the superstructure is insufficient strength of the roof diaphragm, the truss frames, and the wood framed shear walls. The retrofit strategy is to add steel braced frames and to strengthen the roof diaphragm with plywood over timber sleepers.

Similar to the Project, the Expanded Project would add new seismic piles and pile caps on the north apron of Pier 17, along with a new concrete deck.

Performance Criteria: The Expanded Project shall be undertaken in a manner similar to the Project. The Expanded Project shall:

a) Be consistent with the Port of San Francisco's Historic Preservation Review Guidelines for Pier and Bulkhead Wharf Substructures and the Secretary's Standards. This element shall be reviewed in an Amended Historic Resource Evaluation Report to be completed in consultation with the Port of San Francisco's structural engineering staff in the future.

b) Ensure that any new concrete deck is at an appropriate finish elevation that will not negatively affect the historic two-story volume of the Pier shed interior.

c) Utilize the State Historic Building Code, where possible, and undertake seismic strengthening in the least obtrusive manner feasible.

d) Ensure that existing column bases remain in place or be reconstructed as necessary, if strengthening of the existing column to deck connections is required.

9. *Rehabilitation and new construction within the interior of the Pier 17 Transit Shed (including construction of interior partitions and tenant improvements similar to those in the Project).*

According to the current master plan for Pier 17, the Expanded Project would alter the interior spatial character of the Transit Shed by constructing new interior partition walls and a new mezzanine level at the east end of the building. The existing interior office partitions would be demolished, except for the historic office located at the west end. The interior would accommodate an exhibit fabrication workshop, a new restaurant, temporary exhibit space, a larger exhibit hall, classrooms, a greenhouse, and office space. A maritime tenant would continue to occupy a portion of Pier 17 as part of the Expanded Project.

Performance Criteria: The Project Sponsor shall carefully consider the open interior spatial quality, amount of daylight, and exposed structural system of the Pier 17 Transit Shed, which are all character-defining features of the Pier 17 interior. The Expanded Project shall:

a) Retain the primary character-defining features of the interior, which include the open interior volume and spatial character, as well as view corridor in the central bay, the amount of daylight, the exposed ceiling, and the interior wood trusses.

b) The Expanded Project shall seek to emphasize the building's wood-frame construction and former character of the resource by maintaining continuous open view corridors from the west to east facades through the pier shed. By minimizing the physical subdivision of the space, and where subdivision is necessary utilizing glazed and/or transparent partitions, especially in the second story, the Expanded Project would maintain the historic interior volume and spatial character.

c) Retain interior office spaces that date to the period of significance. These office spaces shall be preserved or rehabilitated as part of the Expanded Project.

d) Retain exposed open structural system ceilings in order to highlight wood roof trusses and interior wood roof decking.

e) Install new electrical conduit and infrastructure upgrades. New electrical conduit and infrastructure upgrades shall be installed in a manner that does not damage interior wood trusses or columns.

f) New partition walls shall be detached from the structural columns so as to maintain the visual rhythm of the structural bays.

10. *Structural repairs and upgrades to the bulk wharf (including new paving). This feature would represent a new front door to the expanded museum.*

Similar to the Project, the Expanded Project would include structural repair and upgrades to the bulkhead wharf, and would include new asphalt or concrete topping over this historic feature.

Performance Criteria: New asphalt or concrete paving over the bulkhead wharf would not affect the historic feature because both materials were common surface finish materials characteristic of the Historic District's period of significance. However, the Expanded Project shall:

a) Be undertaken in a manner similar to the Proposed Project, and shall be consistent with the Port of San Francisco's Historic Preservation Review Guidelines for Pier and Bulkhead Wharf Substructures and the Secretary's Standards.

b) Sensitively detail the connection between the new paving and the existing wood walls of Pier 17 in order to minimize the impact on historic fabric and potential for water intrusion. This detail shall be reviewed by a qualified historic preservation specialist.

c) Ensure that doors shall not be undercut, but rather lifted or pocketed in the paving at the door location.

11. *Installation* of *photovoltaic panels and mechanical or electrical equipment on the Pier 17 roof.*

As mentioned in the Proposed Project description, installation of photovoltaic panels on the roof of Pier 15 will alter the historic character of the roof. Similarly, installation of photovoltaic panels on the Pier 17 roof, which is defined by a fairly simple, matte roofing material, would alter the historic character of that roof. The photovoltaic panels would add a reflective quality to the roof.

Performance Criteria: For the Expanded Project, the photovoltaic panels shall be detailed in a manner similar to the panels on the Pier 15 roof in order to minimize impacts to the

historic resource. Where possible, rooftop mechanical equipment shall be located within the interior of the building and any vents, grills, etc. for the mechanical equipment shall be located within existing openings or other locations such that visual and structural impacts are minimized. Where this is not possible and equipment must be placed in an exposed location on the roof, locations for the equipment shall be carefully studied using three-dimensional renderings, and compact low-profile HVAC units shall be utilized and located in areas that minimize visual and structural impacts to the building. The Expanded Project shall:

a) Keep HVAC equipment off of the Pier 17 roof, and organize it in one central location within the Transit Shed.

b) Minimize the number of penetrations through the historic roof fabric.

c) Provide for continuous and consolidated surfaces of photovoltaic panels. The panels shall not be sporadically placed on the roof.

d) Minimize the visibility of the photovoltaic panels from the public right-of-ways by keeping them in the same plane as the roof surface, where possible and selecting the least reflective panel possible.

The implementation of these performance criteria will ensure that the Expanded Project appropriately maintains the roof's historic character.

Overall Performance Criteria: In general, the Expanded Project shall be designed to be consistent with the Proposed Project and use similar strategies to treat historic fabric and maintain overall compatibility with the historic resource and its setting within the Historic District. The Expanded Project shall seek to rehabilitate the resource in a manner consistent with the *Secretary's Standards*. If the Expanded Project complies with the aforementioned performance criteria, the Expanded Project will have a less-than-significant impact upon the historic resource, its setting and the Historic District.

The Planning Department Environmental Review Officer (ERO) shall be responsible for monitoring the Project Sponsor's compliance with this Mitigation Measure. Because the Port is the property owner and the city agency with jurisdiction to issue building permits for construction on the waterfront, the ERO shall consult with the Port prior to making a determination that the Expanded Project has complied with this mitigation measure. The Project Sponsor shall initiate consultation with the Port prior to making application for a building permit to execute the Expanded Project scope of work, which is the subject of this Mitigation Measure. As part of the building permit preapplication consultation with the Port, the Project Sponsor shall submit an Amended Historic

Resources Evaluation Report for Port review. The Amended Historic Resources Evaluation Report shall be prepared by a qualified historic preservation professional and shall analyze the consistency of the proposed scope of work for the Expanded Project with this Mitigation Measure and the *Secretary's Standards*. The Port shall forward the final Amended Historic Resources Evaluation Report for the Expanded Project, along with Port's findings regarding the Expanded Project's compliance with this mitigation measure to the ERO for a final determination. ERO concurrence that the mitigation measure has been satisfied is a pre-requisite to the Port's issuance of the building permit.

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PORT OF SAN FRANCISCO

MEMORANDUM

September 3, 2009

TO: MEMBERS, PORT COMMISSION
Hon. Rodney Fong, President
Hon. Stephanie Shakofsky, Vice President
Hon. Michael Hardeman
Hon. Ann Lazarus

FROM: Monique Moyer
Executive Director

SUBJECT: Request authorization to award, subject to the Board of Supervisors approval, two (2) three-year leases for surface parking between the Port of San Francisco and Tower Valet Parking, Inc. Lease No. L-14750 for Bid Opportunity A: Seawall Lot 301 commonly known as the Triangle Parking Lot, and SWL 314; and Priority Parking-CA, LLC Lease No. L-14747 for Bid Opportunity B: Seawall Lots 322-I, SWL 323, SWL 321, and SWL 324 all located in the Northern Waterfront.

DIRECTOR'S RECOMMENDATION: Approve Attached Resolution

BACKGROUND

On March 5, 2009 the Port Commission approved Resolution No. 09-13, authorizing Port staff to offer through competitive bid two (2) three-year leases for surface parking: Opportunity A: Seawall Lot ("SWL") 301, commonly known as the Triangle Parking Lot, bounded by Taylor Street, Jefferson Street, and Powell Street, and SWL 314, bounded by the Embarcadero, Bay Street, and Kearny Street; and Opportunity B: SWLs 322-I, bounded by Front Street and Broadway, SWL 323, bounded by Davis Street and the Embarcadero, SWL 321, bounded by Front Street, Green Street and The Embarcadero and SWL 324, bounded by Davis Street, Front Street and The Embarcadero. All of these Seawall lots are located in the Northern Waterfront, see attached maps.

THIS PRINT COVERS CALENDAR ITEM NO. 10A

The process was to culminate in the award of a lease or leases with a term of three (3) years. The successful bidder or bidders would be selected based on proposing the highest minimum monthly rent for the opportunity and meeting the minimum qualifications for experience and financial standing.

The submittal date for the bids was May 27, 2009, at which time the bids were publicly opened and ranked in order of highest bid. The Port received requests for twenty-eight (28) bid packages. Eventually the Port received five (5) qualified bids for Opportunity A, and seven (7) qualified bids for Opportunity B. The bids were ranked accordingly:

Bid Ranking Opportunity A

1. ABC Parking	$158,065.00
2. Tower Valet Parking, Inc.	$138,888.88
3. Imperial Parking (U.S.), Inc.	$130,000.88
4. TKC Parking, Inc.	$121,500.13
5. Pacific Park Management	$116,667.00
6. Central Parking	$115,968.00

Bid Ranking Opportunity B

1. ABC Parking	$210,635.00
2. Priority Parking-CA, LLC	$178,244.00
3. PHBS Joint Venture, LLC	$177,777.00
4. Pacific Parking	$171,667.00
5. Central Parking Systems	$153,485.00
6. Parking Concepts, Inc.	$152,249.00
7. Imperial Parking (U.S.), Inc.	$145,740.75
8. Tower Valet Parking, Inc.	$145,555.55

Subsequent to the May 27, 2009 opening, ABC Parking withdrew its bid. Port Staff recommends that the Port Commission award, subject to Board of Supervisors' approval, the two (2) three-year leases to the qualified highest bidders, Tower Valet Parking, and Priority Parking-CA, LLC. Port staff further requests that the Port Commission authorize the Executive Director to forward these leases to the Board of Supervisors for approval.

Analysis

There are currently three parking lot operators in the Northern Waterfront. In order to gain economies of scale that would result in better economic returns, Port staff reconfigured the parking lots in the bid opportunities. Staff also sought to provide various parking alternatives to the Port's parking customer base, such as hourly, daily, valet parking, and where permitted, monthly parking. To achieve these goals, the lots were combined as bid Opportunity A consisting of SWL 301 and SWL 314, and bid Opportunity B consisting of SWL 322-I, SWL 324, SWL 323, and SWL 321.

Analysis of bid Opportunity A: Currently, the Fisherman's Wharf Triangle Parking Lot at SWL 301 operates through a direct month-to-month operating agreement between the tenant and the Port of San Francisco. The tenant sublets the lot to a parking operator through a parking lot operating agreement contract.

This existing parking lot arrangement has proven to be an anemic economic relationship for the Port of San Francisco. The current lease returns approximately $30,000 per month ($0.42 per square foot per month) to the Port after the deduction of operating expenses by the tenant and includes free validated parking for some Port

restaurant tenants. The lease does not contain a percentage rent provision. Therefore, the Port has not participated in any revenue overages derived from the lot.

Under the proposed new lease with Tower Valet Parking, the Port is guaranteed the greater amount of either $97,301.20 per month ($1.36 per square foot) or 66% of all gross receipts net of the City Parking Tax. This represents an approximate 220% incremental increase in revenue to the Port over the existing lease. The lot will continue to provide for a high level of customer service to Fisherman's Wharf visitors with specific hours of free-validated parking to a greater number of the Port's Fisherman's Wharf retail tenants.

The current lease at SWL 314 provides monthly rent equal to the greater amount of $26,758.04 ($0.86 per square foot). Under the new lease with Tower Valet Parking, the new monthly rent is the greater amount of $42,315.04 ($1.36 per square foot) or 66% of gross receipts net of City Parking tax. This represents an incremental increase of 56% over the existing lease.

Analysis of bid Opportunity B: The current operator at SWL 322-I pays rent to the Port equal to the greater amount of $44,993.90 ($1.19 per square foot). The new operator, Priority Parking-CA, will pay rent equal to the greater amount of $45,750.10 per month ($1.21 per square foot per month) or 66% of gross receipts net of City Parking Tax. This represents an incremental increase of 2%.

The existing lease at SWLs 321, 323, and 324 does not contain a percentage rent provision. The Port receives only a monthly base rent. The current monthly rent is $95,791.35 ($0.87 per square foot). The new operator, Priority Parking-CA, will pay rent equal to the greater of $133,227.05 ($1.21 per square foot per month) or 66% of gross receipts net of parking tax. This represents an incremental increase of approximately 40%.

In summary, under the new proposed parking lot leases, the Port will realize incremental revenue increases for base rent of approximately $1.6 million annually or $5.2 million for the three-year terms. This represents a 68% increase over the existing leases. Port staff anticipates a corresponding increase in the percentage rent paid to the Port that may increase the net return over the three-year term of the leases to $7 million.

Both proposed new leases contain parking Expansion Sites, at Port's option, subject to all lease terms and with rent to the Port of San Francisco in the amount of 66% of gross receipts net of City Parking Tax, see attached map.

LEASE TERMS

Tenant:	Tower Valet Parking, Inc.	Priority Parking-CA, LLC
Lease No.	L-14750	L-14747
Premise	SWLs 301 and 314	SWLs 322-I, 321, 323, and 324

Lease Commencement	Following Board of Supervisors approval anticipated to be November 1, 2009.	Following Board of Supervisors approval anticipated to be November 1, 2009.
Lease Expiration Date	36 months following the commencement date	36 months following the commencement date
Monthly Base Rent ("Minimum Rent")	$138,888.88	$178,244.00
Rent Adjustment	Annual 3.5%	Annual 3.5%
Percentage Rent	The greater amount of the base rent or 66% of gross receipts net of City Parking Tax.	The greater amount of the base rent or 66% of Gross Receipts net of City Parking Tax.
Use	Operation of surface parking Lot	Operation of surface parking Lot
Right of Recapture	Port may recapture all or portion of premises with notice	Port may recapture all or portion of premises with notice
Operation Plan	Tenant is required to submit and comply with Port approved Operational and Customer Service Plan.	Tenant is required to submit and comply with Port approved Operational and Customer Service Plan.
Expansion Sites	Pier 45, Shed A and C	North of the Ferry Building except Pier 45, Shed A and C
Expansion Sites Rent	66% of Gross Sales after the deduction of Parking Tax	66% of Gross Sales after the deduction of Parking Tax
Special restrictions	a. SWL 301 monthly parking prohibited; b. Must provide free validated parking to Port Fisherman's Wharf retail tenants for specified duration during specific hours; c. Tenant shall make some or all of SWL 314 available for parking and staging to support cruise ships with notice from Port at market rates; d. Tenant shall make a minimum of 20% of stalls at SWL 314 available on an hourly basis to support local merchants.	a. Must provide 40 free parking stalls to Port employees at SWL 323; b. Tenant must make SWL 321 available to support the Exploratorium Project at Piers 15/17 at the then market rates.

RECOMMENDATIONS

Port staff recommends that the Port Commission approve the two (2) three-year leases for surface parking in the Northern Waterfront between the Port of San Francisco and Tower Valet Parking, Inc., Lease No. L-14750, for SWLs 301 and 314; and Priority Parking-CA, LLC, Lease No. L-14747, for SWLs 322-I, 323, 321 and 324 and authorize the Executive Director to forward said Leases to the Board of Supervisors for award and approval pursuant to Board's authorization under Charter Section 9.118, and upon the effectiveness of such approval, execute said leases.

Prepared by: Jeffrey A. Bauer, Senior Commercial Leasing Manager

For: Susan Reynolds, Deputy Director of Real Estate

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PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO
RESOLUTION NO. 09-48

WHEREAS, Charter Section 4.114 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control Port area of the City and County of San Francisco; and

WHEREAS, surface parking generates a significant revenue stream to the Port, and the Port desires to operate its parking lots in an efficient manner while maximizing revenues; and

WHEREAS, the Port requires continued operation of SWLs 301, 314, 321, 322-I, 323, and 324, all located in the Northern Waterfront, for parking by both Port tenants and the public; and

WHEREAS, On March 5, 2009, pursuant to Resolution 09-13, the Port Commission authorized staff to competitively bid two (2) three-year leases for surface parking lots operated in the Northern Waterfront: Bid Opportunity A: SWLs 301 and 314; and Bid Opportunity B: SWLs 322-I, 323, 321, and 324, all located in the Northern Waterfront; and

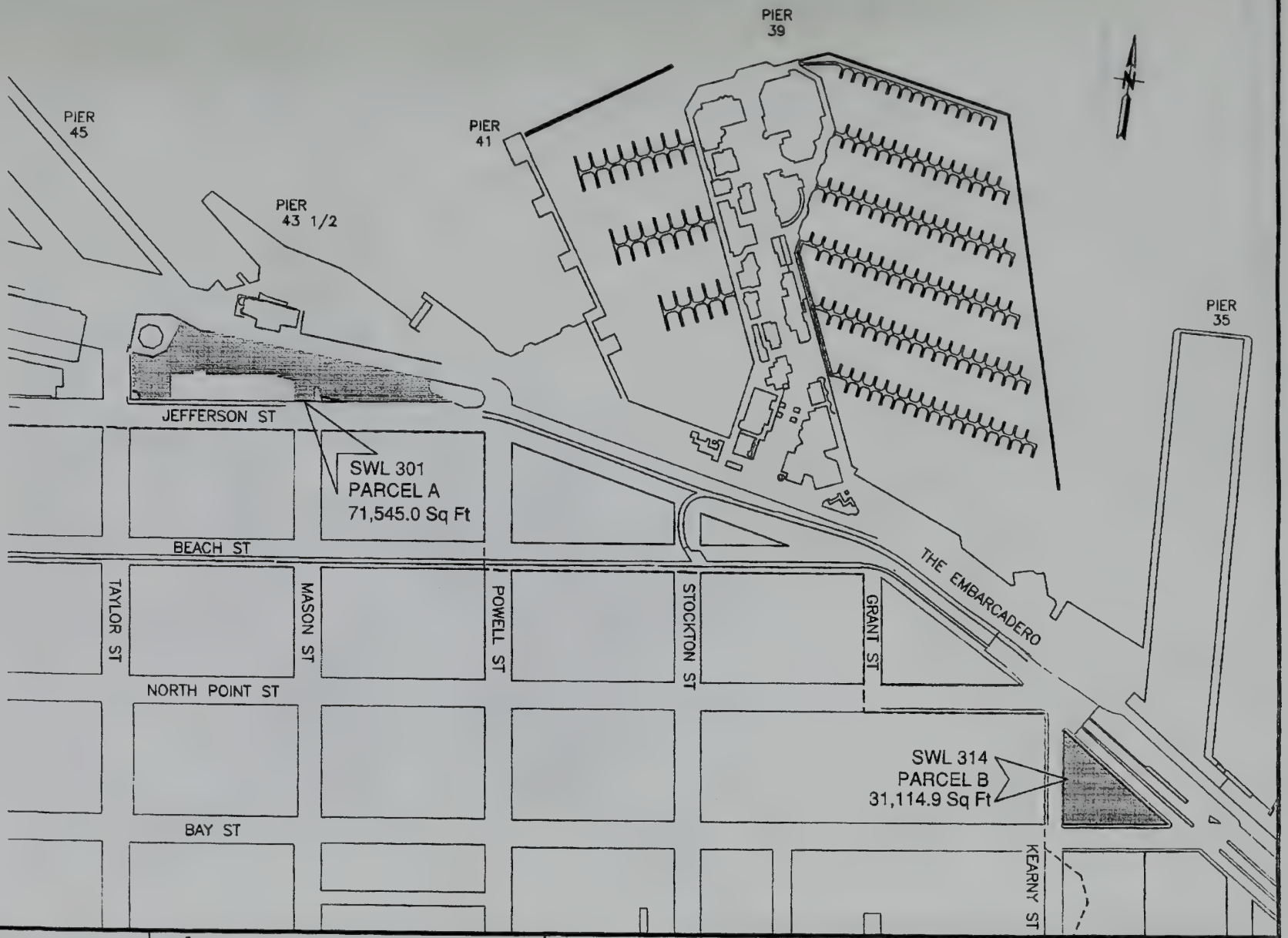
WHEREAS On May 27, 2009 bids were publicly opened and ranked in order of highest bid, the results are enumerated in the staff report; now, therefore, be it

RESOLVED, That the Port Commission awards, subject to Board of Supervisors' approval, the Leases on the terms described in the attached staff report and authorizes and directs the Executive Director or her designee to forward the Leases to the Board of Supervisors (the "Board") for approval, pursuant to the Board's authority under Charter Section 9.118, and upon the effectiveness of such approval, to execute the Leases; and, be it further

RESOLVED, That the Port Commission authorizes the Executive Director to enter into any additions, amendments, or other modifications to the Leases that the Executive Director, in consultation with the City Attorney, determines are in the best interest of the Port, do not materially increase the obligation or liabilities of the City or Port, and are necessary or advisable to complete the transactions which the Leases contemplate and effectuate the purpose and intent of this Resolution, such determination to be conclusively evidenced by the execution and delivery by the Executive Director of the Leases, and any such amendments hereto.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of September 8, 2009.

_____
Secretary



SAN FRANCISCO PORT COMMISSION
PORT OF SAN FRANCISCO
DEPARTMENT OF ENGINEERING

DRAWN BY:-ECC	DATE: AUG 3, 2009
CHECKED BY: J. BAUER	SCALE: NONE
PLACE CODE NO. 3140-00	SHEET NO. OF SHEETS

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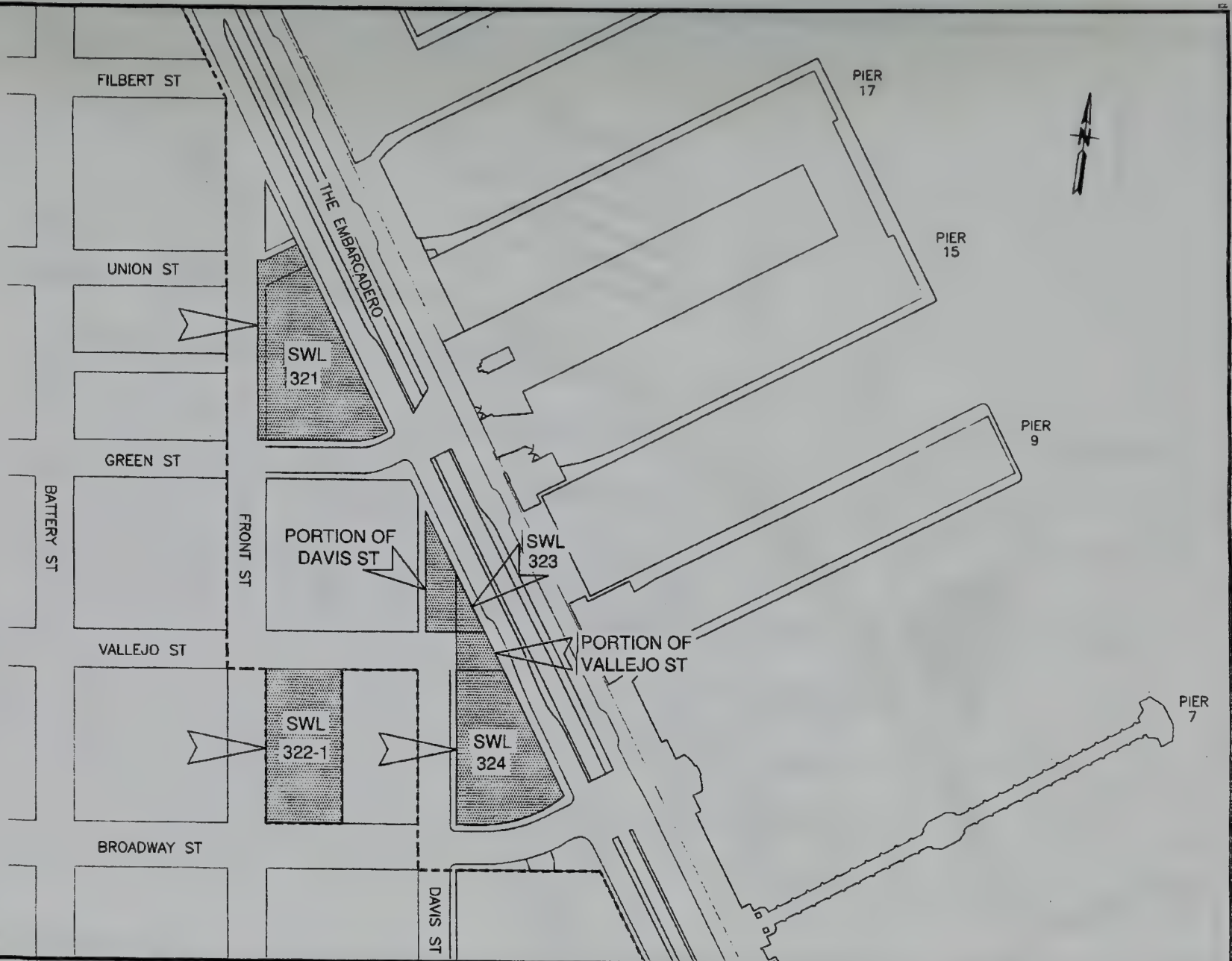

SAN FRANCISCO PORT COMMISSION
PORT OF SAN FRANCISCO
DEPARTMENT OF ENGINEERING

DRAWN BY: ECC	DATE: JUL 16, 2009
CHECKED BY: J. BAUER	SCALE: NONE
PLACE CODE NO. 3140-00	SHEET NO. OF SHEETS

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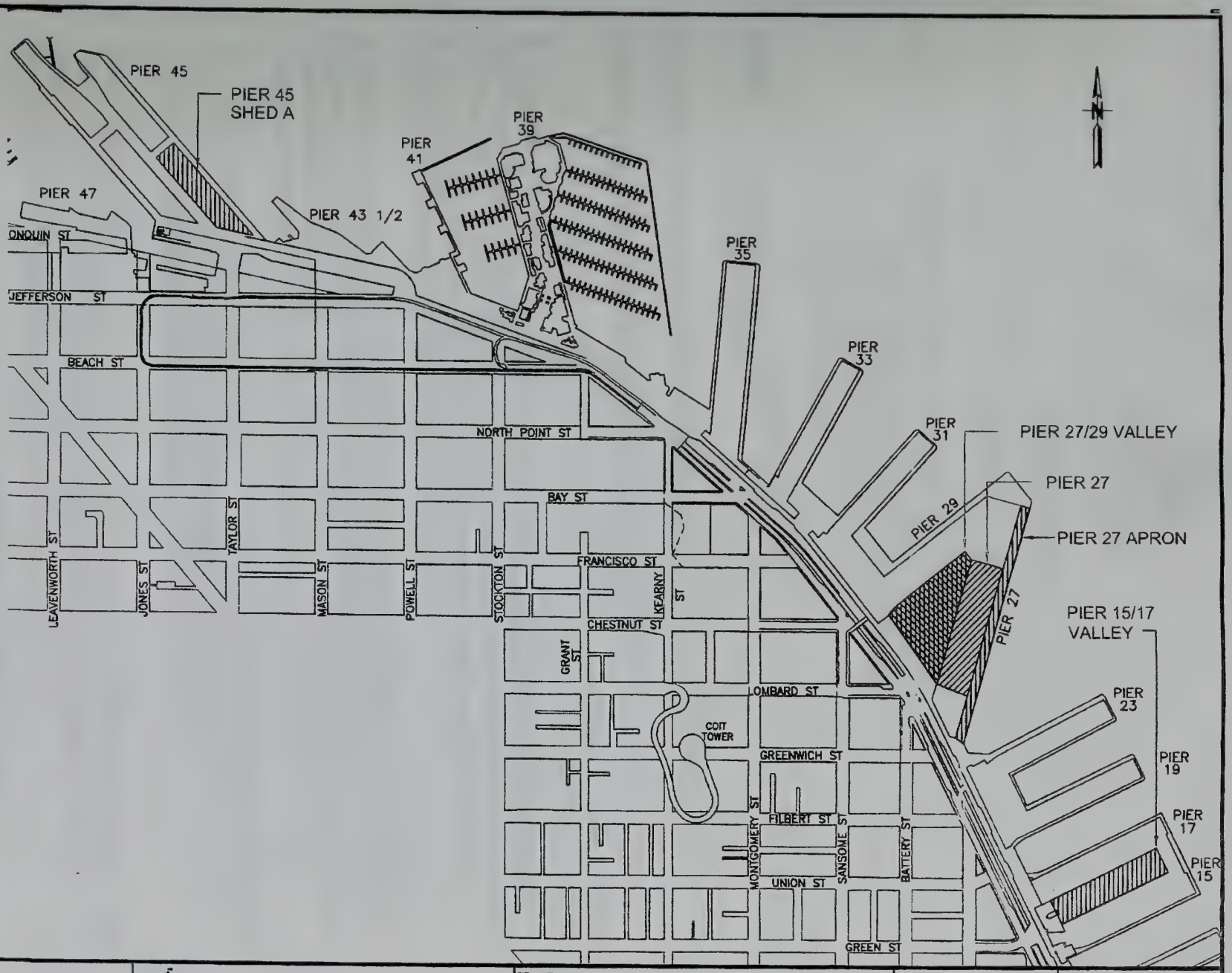

SAN FRANCISCO PORT COMMISSION
PORT OF SAN FRANCISCO
DEPARTMENT OF ENGINEERING

TENANT

EXPANSION PARKING LOT SITES

DRAWN BY:- ECC	DATE: MAR 2, 2009
CHECKED BY: J. BAUER	SCALE: NONE
PLACE CODE NO.	SHEET NO.
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PORT OF SAN FRANCISCO

MEMORANDUM

September 1, 2009

TO: MEMBERS, PORT COMMISSION
Hon. Rodney Fong, President
Hon. Stephanie Shakofsky, Vice President
Hon. Michael Hardeman
Hon. Ann Lazarus

FROM: Monique Moyer
Executive Director

SUBJECT: Request Approval of Port Tenant In Good Standing Policy

DIRECTOR'S RECOMMENDATION: Approve Resolution

Background
The Port of San Francisco ("Port") is a public enterprise dedicated to recreational, maritime, transportation, public access and commercial and industrial uses on a self-supporting basis through appropriate management, use and development of the waterfront for the benefit of the people of California.

From time-to-time the Port receives requests from its current tenants for additional benefits from the Port in the form of extended leases, more leasehold space or other amendment to their leases. Port staff recommends that requests for lease amendment or extensions should be considered *only* for tenants that are in good standing.

To ensure clarity, equity and consistency in considering such requests, the Port staff recommends adoption of a policy delineating what it means to be a Tenant In Good Standing and what types of tenant requests will be considered.

Recommendation
Port staff recognizes the benefit of clarity and equity when enforcing its leases. Port staff acknowledges that further definition would assist in this process and recommends approval of the attached Tenant In Good Standing policy.

Prepared by: Susan Reynolds
Deputy Director for Real Estate

THIS PRINT COVERS CALENDAR ITEM NO. 10B

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 09-49

WHEREAS, Charter Section B3.581 empowers the Port Commission with the power and duty to use, conduct, operate maintain, manage, regulate and control Port area of the City and County of San Francisco ("City"); and

WHEREAS, under Charter Section B3.581 (g), leases granted or made by the Port Commission shall be administered exclusively by the operating forces of the Port Commission; and

WHEREAS, from time-to-time the Port receives requests from its current tenants for additional benefits from the Port in the form of extended leases, more leasehold space or other amendment to their leases; and

WHEREAS, Port staff recommends that requests for lease amendment or extensions should only be considered for tenants that are in good standing; and

WHEREAS, to ensure clarity, equity and consistency in considering such requests, the Port staff recommends adoption of a policy that explains what it means to be a Tenant In Good Standing and what types of tenant requests will be considered; and

WHEREAS, Port staff has attached to its memorandum, dated September 1, 2009, to the Port Commission on this item a proposed policy for the afore-stated purposes, on file with the Secretary of the Port Commission, the "Port of San Francisco Tenant in Good Standing Policy"; now therefore, be it

RESOLVED, that the Port Commission hereby approves the Tenant In Good Standing policy, as set forth in the memorandum to the Port Commission for this item and authorize the Executive Director or her designee to instruct Port staff to utilize this policy.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of September 8, 2009.

_____
Secretary

Port of San Francisco
Tenant In Good Standing Policy

Background

The Port of San Francisco ("Port") is a public enterprise dedicated to recreational, maritime, transportation, public access and commercial and industrial uses on a self-supporting basis through appropriate management, use and development of the waterfront for the benefit of the people of California.

From time-to-time, the Port receives requests from its current tenants to receive additional benefit from the Port in the form of extended leases, more leasehold space and other amendment to their leases. As a result, the Port requires that the tenant qualify for that additional benefit by complying with the terms of existing leases and demonstrating that proposed new amendments benefit the Port and the people of California.

This Policy further identifies those lease terms that are considered when determining if a tenant is a Tenant In Good Standing:

Definition

A Tenant In Good Standing is one that, in the professional judgment of Port staff, is and has been in compliance with all the terms and conditions of the lease throughout the term of the lease, including:

1. Current and in compliance with all financial obligations of the lease, and all amounts due and payable have been paid on time as due;
2. Calculation of percentage rents due is correct with no unapproved off-sets;
3. All tenant records are kept in accordance with the lease and available to Port staff or its auditors for review;
4. Use of the premises is in accordance with the terms of the lease without encroachment, trespass, unauthorized sublet or transfer;
5. Current and in compliance with all the insurance obligations of the lease;
6. Current and in compliance with all regulatory obligations including California Environmental Quality Act (CEQA) and San Francisco Bay Conservation and Development Commission (BCDC) and environmental operations plans provided by the lease;
7. Has maintained the leasehold in good condition, free from deferred maintenance;
8. Has obtained all required permits;
9. Has met and is in compliance with all other lease covenants and obligations; and
10. There is no litigation or any other dispute adverse to the Port.

A tenant that has been non-compliant with any of these conditions noted above may re-establish their status as a Tenant In Good Standing if:

1. Tenant has responded to any non-compliance issues and taken corrective measures in a timely manner;
2. The non-compliance, in the Port's sole judgment, is not representative of a pattern; and
3. If tenant has been in litigation or other dispute against the Port, matters have been resolved to the sole satisfaction of the Port.

Opportunities:
If a request does not trigger change of use or need for competitive bidding, Tenants In Good Standing may receive the Port's consideration for the following requests:

1. Amendments;
2. Additional term;
3. Change in leasehold size;
4. Assignments/sublets; and/or
5. Request additional agreements on Port property.

The factors enumerated above are meant to be guidelines to assist Port staff in making a professional determination regarding the status of Port tenants. The Port shall use these factors to determine whether it is in the best interest of the Port to grant or to recommend to the San Francisco Port Commission that it grant a tenant's request. Port staff recognizes that there may be tenant requests that do not fit into the categories enumerated above and reserves the right, at the Port's sole discretion, to make determinations and recommendations on such submittals that are in the best interest of the Port.

This Policy formalizes Port practices pertaining to all outstanding leases and licenses.

PORT OF SAN FRANCISCO

MEMORANDUM

September 2, 2009

TO: MEMBERS, PORT COMMISSION
Hon. Rodney Fong, President
Hon. Stephanie Shakofsky, Vice President
Hon. Michael Hardeman
Hon. Ann Lazarus

FROM: Monique Moyer
Executive Director

SUBJECT: Informational Presentation on the Port's Facilities Assessment Program

DIRECTOR'S RECOMMENDATION: Informational Presentation – No Action required

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BACKGROUND

The Port's Facility Assessment Program (Program) inspects, categorizes and records the condition of over 350 structures which includes piers, wharves and buildings under the Port's jurisdiction. The Port's Facility Assessment Team (FAT) manages the program and is responsible for performing periodic inspections to identify health and safety issues and inform tenants and the public about its findings. Based on the structural condition of the facilities, the Facility Assessment Team makes recommendations for barricades and warning signs. The inspection findings are also used to document maintenance and repair needs for the Port facilities.

The Program was formally launched by Port Engineering Staff in February 2002. During a Port Commission Meeting held in March 2007, Port Staff made an informational presentation about the Program and gave an update of its investigations and findings. The presentation described the protocol, objectives and various accomplishments of the Program. The purpose of this presentation is to provide an update on the Program activities since March 2007.

For each facility structure, the inspection findings and recommendations are summarized in a report which includes a structural rating of the respective facility indicated by a coloring scheme shown on a schematic map of the facility. The structural rating coloring scheme is described below:

- green (good structural condition, no live load reductions/restrictions)

This Print Covers Calendar Item No. 11A

- yellow (fair structural condition, but needs some structural remediation, reduced/restricted live loading)
- red (poor structural condition, restricted access)

Since the Program's formalized inception in 2002, the Facility Assessment Team has been conducting inspections of all Port facilities based on a frequency which depends on the type of building material and the type of occupancy or use of the facility.

Attachment 1 shows current structural ratings of the Port Facilities from southwest to northeast. Attachments 2 and 3 list all red-tagged and yellow-tagged facilities, respectively.

RECENT MAJOR STRUCTURAL INVESTIGATIONS AND FINDINGS

The following represents new investigations and related findings since the March 2007 Port Commission Meeting:

Pier 31 Shed Investigation (Refer to Attachment 4)

A detailed investigation conducted by the Port Facility Assessment Team during the early part of this year revealed extensive damage to the roof structural framing and supporting columns due to leaking roofs over an extended period of time. For some time, this pier was part of several proposed public/private partnership development projects (Mills and Shorenstein). In the anticipation of future repairs being done by these projects, no Port capital funds were allocated for maintenance and repair of the Pier 31 Shed. This has resulted in deterioration of roof membrane, rain water leaks and associated damage of structural framing. The Pier has since been shored at critical locations to prevent collapse. The Pier shed is currently red-tagged and is not being occupied. The Bulkhead structure is still in useable condition and suitable for occupancy. The Pier substructure also requires a considerable amount of repairs. No funds are available at this moment for repair of this facility.

Investigation of Pier 35 Shed and Substructure (Refer to Attachment 5)

The Port recently hired Holmes & Cully, a structural engineering consulting firm, to perform a detailed investigation of Pier 35 Shed. This investigation was a follow up to a Pier 35 Shed roof truss failure in 2008. The failed truss was immediately shored to prevent any localized collapse of the roof. The Holmes & Cully investigation findings indicated widespread wood infestation and superstructure and substructure structural deterioration/deficiencies which require repairs in the immediate future. Although there is no imminent collapse hazard, without these repairs the pier may suffer further localized failure in wood columns and roof truss framing members. The shed requires immediate fumigation to eliminate termites and other wood infestation.

The Holmes and Cully investigation noted a hazardous seismic deficiency called a "soft story" condition that exists over the cruise ship passenger queuing area. This condition resulted from a previous addition of a mezzanine level to the southwest end of the shed,

without due consideration of seismic forces and load paths. This dangerous structural condition must be remedied.

Another detailed investigation conducted by Forell/Elsesser Engineers, Inc. indicated that the Pier substructure pilings, beams, girders and slab panels are in need of some critical repairs.

A preliminary cost of these required critical repairs is in the range of $15 million. Port staff is exploring the option of using revenue bond proceeds to fund these repairs.

Port Staff is exploring the option of using Holmes & Cully Engineering Team to come up with a temporary shoring/stabilization plan and fumigation plan for the shed. Temporary shoring work will be installed to assure the shed is stable to allow the Pier to continue to be in operation until a complete rehabilitation work for the shed can start in the winter of 2010. The roof repair work is currently underway by Port Maintenance staff and is expected to be completed by the end of this year. The fumigation work will follow completion of roof repair.

Pier 50 Valley Substructure Investigation (Refer to Attachment 6)

Pier 50 Valley is located between Sheds A and B of Pier 50 and supports the access road to the Port Maintenance Shed. A major portion of the Valley deck is currently red-tagged due to deterioration in substructure deck pilings, beams and slab panels. The Port hired Winzler and Kelly, Inc. to perform a detailed structural investigation of the substructure. The investigation work revealed that repairing the entire Valley substructure deck will cost approximately $7 million. In order to optimize the use of Port funds, Port staff made a decision to repair only a portion of the Valley to accommodate two traffic lanes, permitting access to and from the Pier 50 Maintenance Shed. The existing K-rail barricades will be replaced with architectural railings, and the unrepaired sections will include light planter boxes. The cost of these limited repairs and improvements is in the range of $1.5 million. Port staff is planning to use revenue bond moneys to fund these limited, long term repairs.

Pier 43.5 Parking Lot Substructure Failure in June 2008

After a portion of the parking deck collapsed due to structural deterioration, the Port Facility Assessment Team performed a detailed investigation of the substructure. Based on the investigation, Port Staff determined that the Pier 43.5 parking lot was unsafe for use. The facility was immediately red-tagged, barricaded and taken out of use. The substructure was found to have a great amount of deterioration from dry rot. Based on the Program protocol, the tenant was notified of the facility condition. The tenant decided not to proceed with repairs of the facility and the facility was returned to the Port. Most of the parking lot deck is planned to be demolished by the Port as part of a Pier 43 Park and Promenade Project.

OTHER INVESTIGATIONS

In addition to above-listed projects, the Port has conducted structural investigations of several other facilities as listed below:

- Fisherman's Wharf Fuel Dock
- Wharf J9 Seawall and Deck
- Wharf J7/J8
- Wharf J4
- Pier 33 Aprons
- Pier 19 Aprons
- Pier ½ Parking Lot
- Ferry Building North Public Access Plaza
- Agriculture Building North Apron
- Pier 26 Aprons
- Pier 28 Aprons
- Pier 50 Shed B Apron

Pier ½ Parking Lot is currently red tagged due to extensive deterioration in substructure deck framing and pilings. This facility will be demolished when funds become available.

The repair plans for the remaining facilities in the list are complete. The construction repairs for Fisherman's Wharf Fuel Dock, Wharf J9 Seawall and Deck and the Ferry Building North Public Access Plaza deck projects will be executed by outside contractors while the rest of the facilities noted in the list above will be repaired by Port Maintenance Staff. All projects except the Wharf J9 project will be funded from the Port's Pier Repair Fund. Port Staff is planning to use Port revenue bond proceeds to fund the Wharf J9 project.

COMPLETED CONSTRUCTION PROJECTS

The following projects resulted from the structural investigations conducted by the Facility Assessment Team. These projects have either been completed or are currently under construction through the efforts of Port Staff and Port Tenants:

- Wharf J11 (Completed by Port Maintenance)
- Pier 9 North South Apron Midsection (Completed by Port Maintenance)
- Pier 50 North Apron Fender Pile Replacement (Completed by Port Maintenance)
- Aqua Vista Pier (Completed by Port Maintenance)
- Pier 35 North Apron Section (Completed by outside contractor)
- Emergency Repairs of Pier 92 Apron (Construction-in-progress by Port Maintenance)
- Pier 9 Aprons, Bar Pilots' Tenancy (Construction-in-progress by the tenant)
- Pier 22.5 Substructure, East Pier and Marginal Wharf (Construction-in-progress by San Francisco Fire Department)

- Pier 24 Annex Substructure and Superstructure (Construction-in-progress by the tenant)

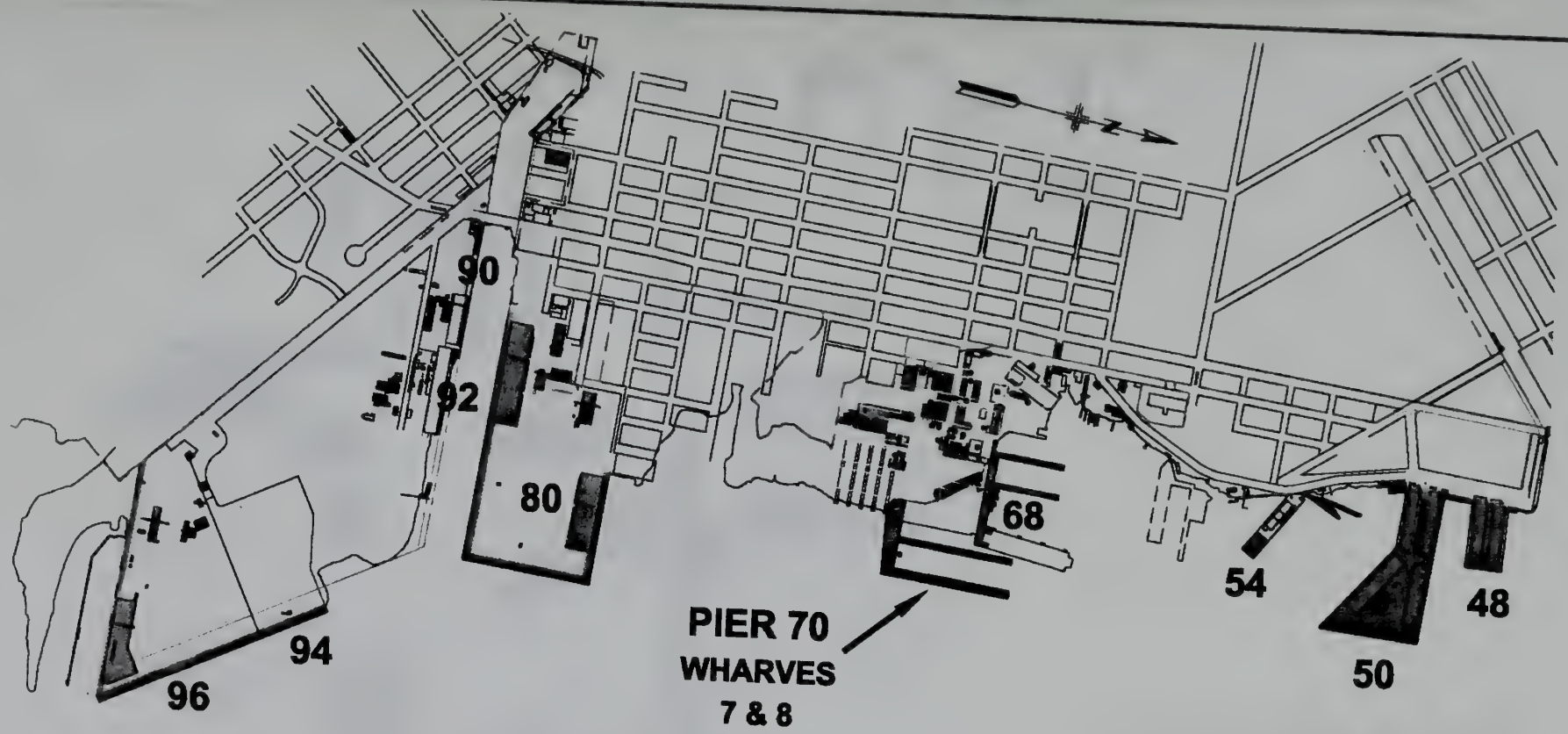
SUMMARY

The Port Facility Assessment Program provides valuable information related to structural conditions of Port facilities. This information is used to identify facility health and safety issues and the Port's facility repair and maintenance needs. Using this Program, Port staff makes critical decisions regarding public safety and asset management, including capital allocation for maintenance and repairs, and public safety. The Program findings were used for formulation of the Port's Ten Year Capital Plan and the on-going assessments provide a basis for update to the Plan.

Prepared By: Uday Prasad, Senior Civil Engineer

For: Edward Byrne, Chief Harbor Engineer

Attachment one-Structural Rating- Page 1 of 4
India Basin to Pier 48



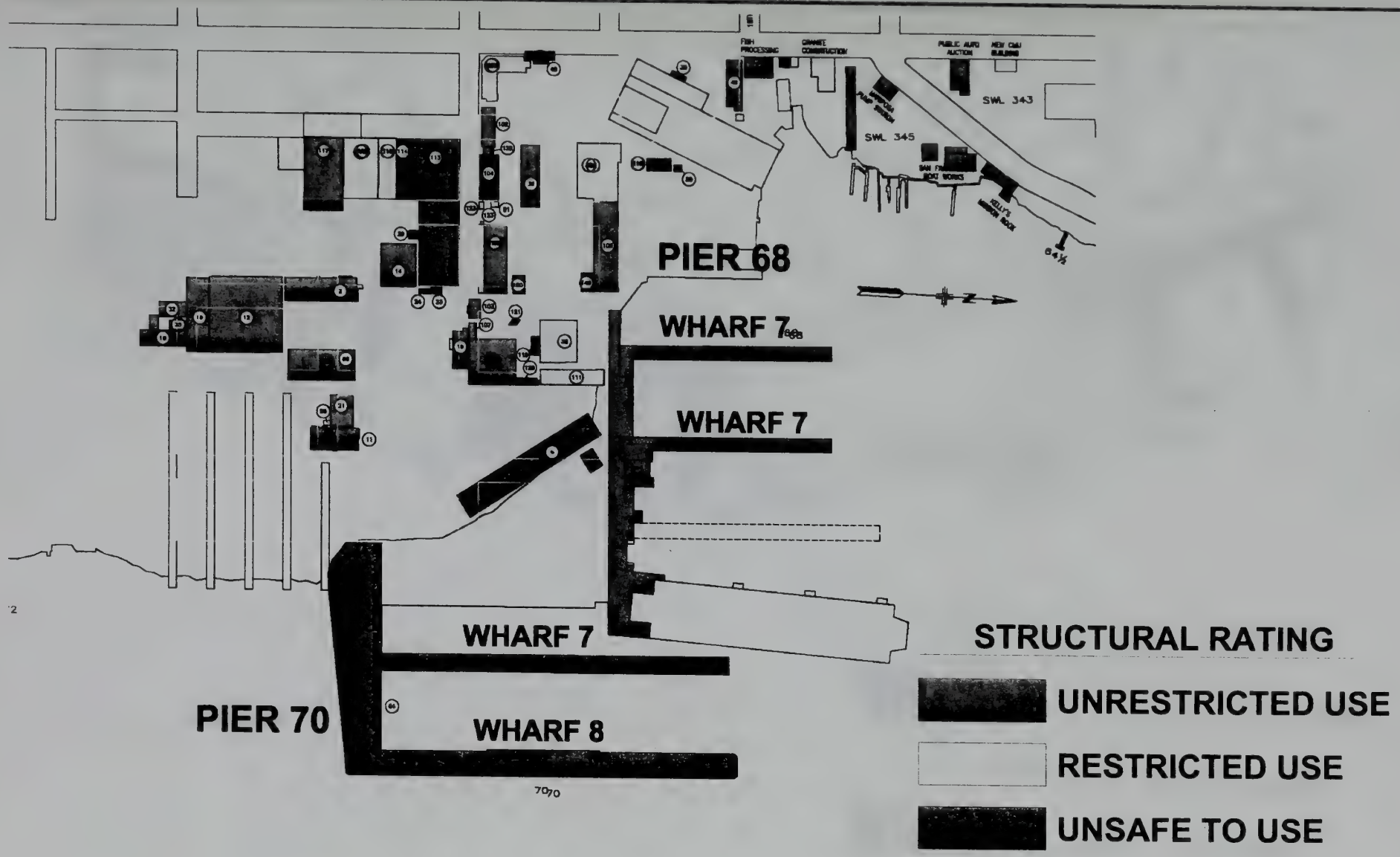
STRUCTURAL RATING

UNRESTRICTED USE

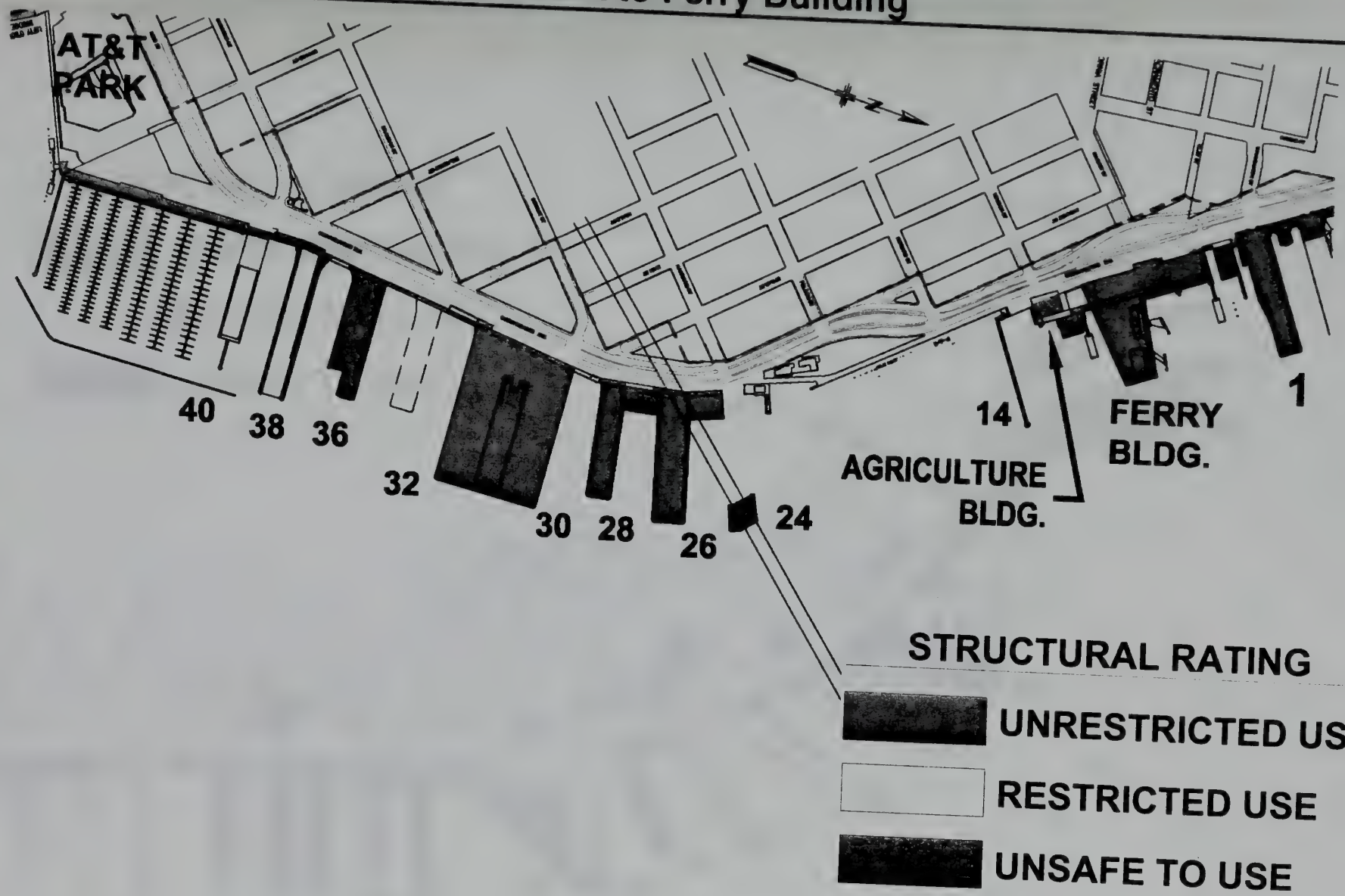
RESTRICTED USE

UNSAFE TO USE

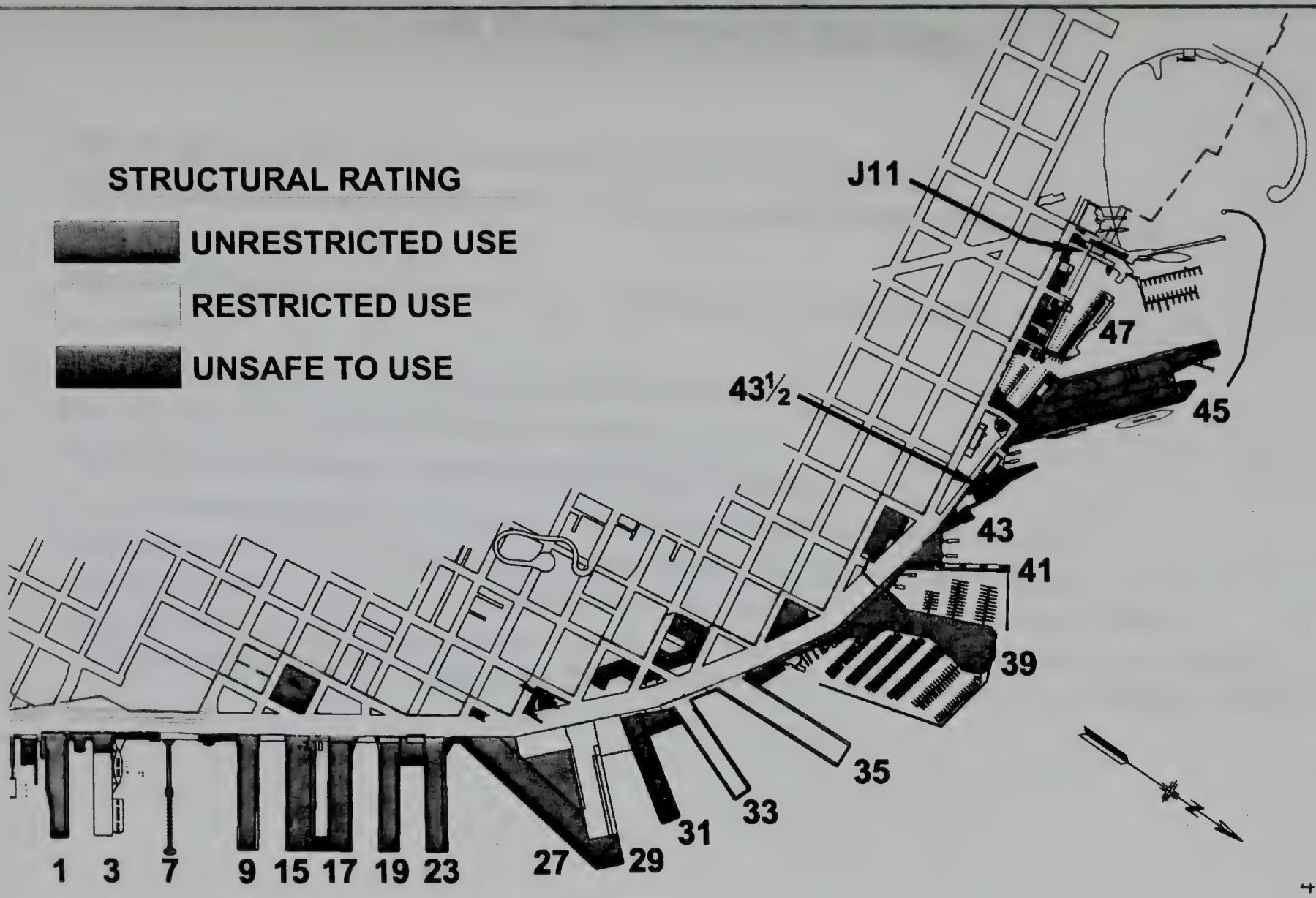
Attachment one-Structural Rating-Page 2 of 4
Closeup: Pier 68, Pier 70



Attachment one-Structural Rating-Page 3 of 4
AT&T Park to Ferry Building



Attachment One-Structural Rating-Page 4 of 4
Pier 1 to Fisherman's Wharf



Attachment 2
List of Facilities with Red tags

Pier 96 Mooring Pier, Pier 92 Apron, Portion of Pier 90 Wharf,

Pier 90 Grain Silos and along with several surrounding buildings and structures,

Pier 70 Wharves 7 and 8,

Pier 68/70 Facilities (Warehouse no. 6, Buildings 23, 24, 29, 40, 50, 104, 110, 113, 114, 119),

Pier 60 (Previously known as Carmen's Restaurant),

Pier 52, Pier 50 (Valley and Shed B Apron),

Pier 48 (North East and South East Portions of Aprons),

Pier 36, Pier 40 South Apron Portion, Pier 38-Portions of North and South Aprons,

Pier 28 (North and South Aprons), Pier 26 (North Apron), Pier 24 (Remnant Portion),

Pier 22.5 (Portions of East Shed), Marginal Wharf between Pier ½ and Ferry Building, Pier ½,

Pier 9 South Apron (Blue and Gold Lease), Portions of Pier 15, Pier 17 (North Apron), Pier 19 North Apron, Pier 31 (Excluding Bulkhead), Pier 33 North Apron, Pier 43.5 Parking Lot, Portion of Wharf J3

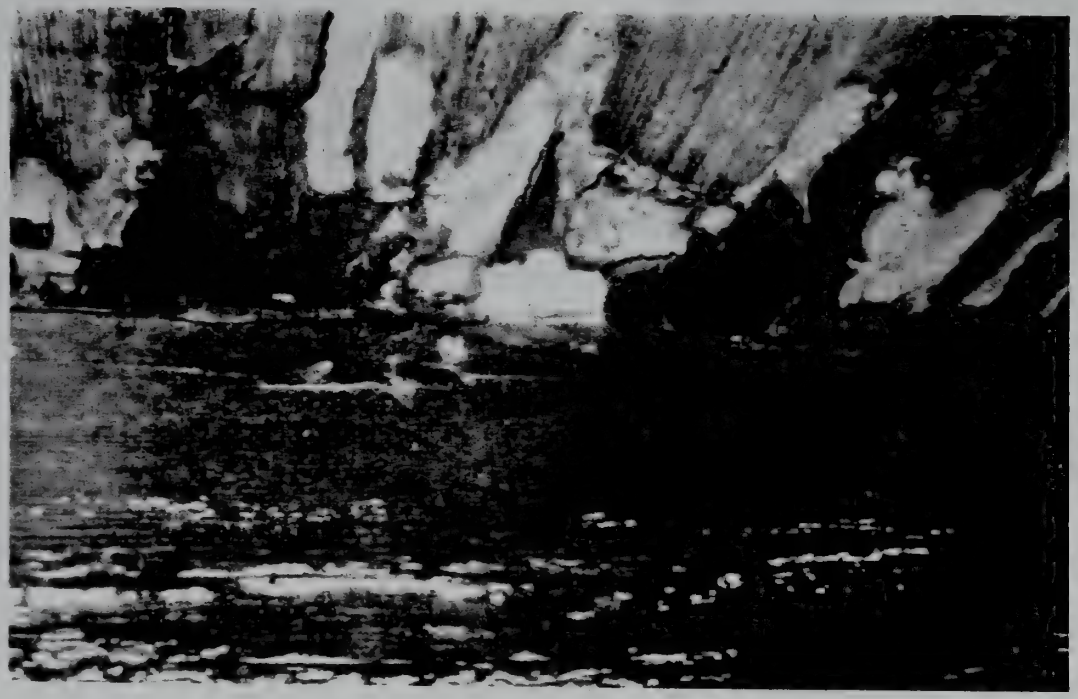
Attachment 3
List of Facilities with yellow tags

Wharf J9, Wharf J7/J8, Wharf J4, Portion of Pier 45 East Apron,
Pier 43.5 Marginal Wharf, Pier 35-39 Marginal Wharf Extension,
Pier 35 Substructure including North and South Aprons, Pier 33.5 Marginal Wharf,
Pier 33 Substructure including South Apron,
Pier 31.5 Marginal Wharf, Pier 31 Marginal Wharf, Pier 29.5 Wharf,
Pier 29 Substructure including North Apron, Pier 29 Marginal Wharf
Pier 19.5 Marginal Wharf, Pier 19 Marginal Wharf, Pier 19 South Apron,
Pier 15/17 Valley, Pier 15 Partial Area, Pier 9.5 Marginal Wharf, Pier 7 Marginal Wharf,
Pier 3 Substructure, Pier ½ Marginal Wharf, Agriculture Bldg. North and East Aprons
Pier 22.5 Substructure, Pier 24.5 Marginal Wharf, Pier 26.5 Marginal Wharf,
Pier 28.5 Marginal Wharf, Pier 32-36 Marginal Wharf, Pier 36.5 Marginal Wharf,
Pier 38 Substructure, Pier 40 Substructure including North Apron and Sections of South. Apron,
Pier 48 North Apron and Section of South Apron,
Pier 50 Shed B - Sections of South Apron,
Pier 54 Substructure Section, including Sections of North, South and East Aprons,
Pier 90 Wharf Section, Pier 92 Wharf Section and Pier 92 Apron Section,
Pier 94-96 East Apron

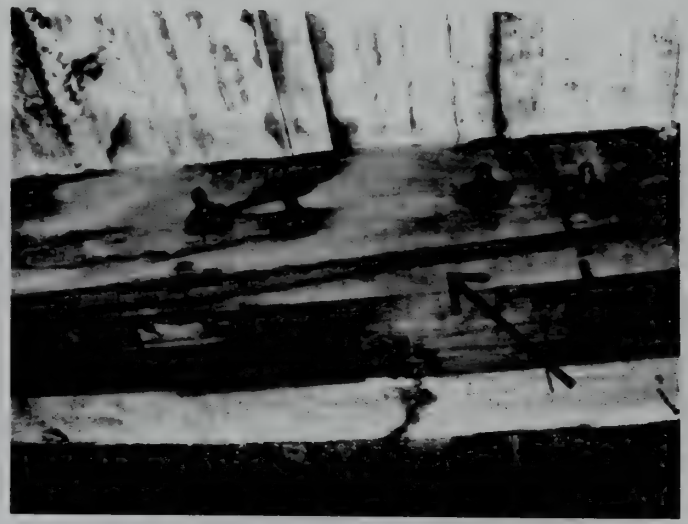
Truss failure-March 2008

Wood Corbel Damage due to Pest Infestation

Dry Rot Damage to Roof Sheathing and Rim Joist



Attachment 5-Page 1 of 2
Pier 31 Shed Investigation

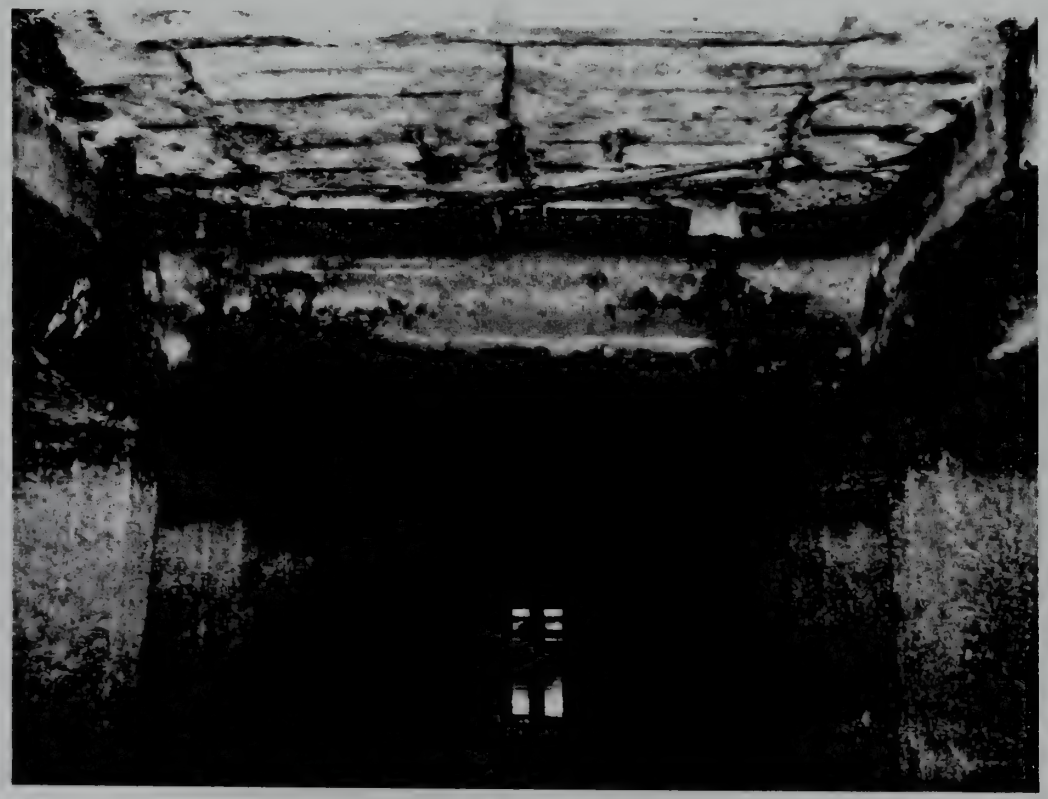


- Pier 31 Shed
  - Truss column, multiple purlins, and portion of roof truss were determined to be failing.
  - Maintenance immediately erected shoring at critical locations.

Attachment 5-Page 2 of 2
Pier 31 Shed Investigation

Attachment 6-Page 1 of 2
Pier 50 Valley Investigation

Pier 50 Valley Substructure Deck Deterioration



Attachment 6-Page 2 of 2
Pier 50 Valley Investigation

Pier 50 Valley Deck-Barricades

PORT OF SAN FRANCISCO

MEMORANDUM

September 3, 2009

TO: MEMBERS, PORT COMMISSION
Hon. Rodney Fong, President
Hon. Stephanie Shakofsky, Vice President
Hon. Michael Hardeman
Hon. Ann Lazarus

FROM: Monique Moyer
Executive Director

SUBJECT: Informational Update on the Port's 2008 Clean and Safe Neighborhood Parks General Obligation Bond Program

DIRECTOR'S RECOMMENDATION: Informational Presentation Only

Background and Overview

On February 5, 2008, San Francisco's voters approved a $185 million General Obligation bond entitled the 2008 Clean and Safe Neighborhood Parks General Obligation (GO) Bond (the "2008 GO Bonds") of which $33.5 million is earmarked for several waterfront parks on Port property. The Ordinance adopted by the City in October 2007 that placed the 2008 GO Bond on the ballot identified the following sites on Port property to receive GO bond funds and the City's bond report identified the project and bond issuance funding levels for waterfront parks projects:

➢ Pier 43 Promenade	$ 7,800,000
➢ Brannan Street Wharf Park	$ 2,900,000
➢ **Blue-Greenway Projects**	$22,100,000
Bayfront Park at Mission Bay	
Pier 70 Crane Cove Park	
Warm Water Cove Park	
Islais Creek Shoreline Parks	
Heron's Head Park Entrance	
Design Standards and Enhancements to all Blue-Greenway Projects	
Total Project Allocations	$32,800,000
Bond Issuance Costs	$ 700,000
Total Allocation to Waterfront Parks Projects	$33,500,000

This Print Covers Calendar Item No. 12A

2008 GO Bond – Status of the Port Waterfront Projects

The first issuance of the 2008 GO Bonds included $3,644,438 to fund planning and design efforts for the Port's waterfront parks projects. These funds were appropriated at the end of November 2008. The following is a summary of the status of the Port's 2008 GO Bond funded projects through August 31, 2009. Attachment I to this report includes more detailed information for each project including project appropriations, expenditures and encumbrances as well as project schedules.

As described in Attachment I, the Port is in various stages of planning and design for all of the Port's 2008 GO Bond funded projects. By the end of summer 2010, we anticipate that:

- Bayfront Park project will be in construction.
- We will have advertised the construction contracts for the Pier 43 Baytrail Link and Brannan Street Wharf projects.
- We will have begun detailed design for the Blue-Greenway projects.

With the exception of the Brannan Street Wharf project, all of the projects are within budget. To help fully fund the Brannan Street Wharf project, Speaker Nancy Pelosi requested a $6 million federal earmark that is currently pending.

The Blue-Greenway Planning and Design Guidelines community planning process is underway and is now scheduled to conclude in April 2010. While developing the scope of work required to conduct the project and working with Port Commissioners, community members, open space advocates and interested citizens, the planning process was expanded to include the identification of open space opportunities, identification of programming (uses) options, identification of cost and the development of an implementation strategy to improve the Blue Greenway, including project prioritization.

Overall Program Status

The Port has instituted a standing bi-weekly, inter-Divisional meeting on all bond projects in order to more closely track progress and offer assistance among parties when needed.

To facilitate added focus to bond-funded projects, the Port hired an additional project manager in the spring of 2009. Additionally, the Port has engaged the Department of Recreation and Parks' Planning Division for planning and permitting support.

Port staff have been providing monthly project status reports to the Recreation and Parks Department to include on their 2008 Clean and Safe Neighborhood Parks Bond website http://parkbonds.sfgov.org/2008/. In addition, Port staff have been providing the City's General Obligation Bond Oversight Committee (GOBOC) with bi-annual status reports on the Port's 2008 GO Bond funded projects.

Conclusion

The Port's 2008 GO Bond funded projects are all underway in various stages of implementation. We will continue providing periodic status reports to the Port Commission on the Port's 2008 GO Bond funded projects.

Prepared by: David Beaupre, Planning & Development
Ken Chu, Project Manager, Engineering
Daley Dunham, Capital Planning and Grants Manager
Tina Olson, Deputy Director, Finance and Administration
Diane Oshima, Assistant Deputy Director, Planning & Development
Steven Reel, Project Manager, Engineering

Attachment I

2008 Clean and Safe Neighborhood Parks Bond

Port of San Francisco Projects Status Reports

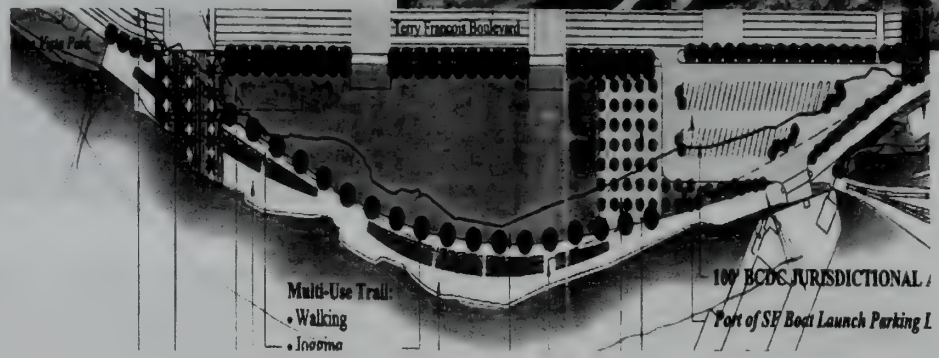
Bayfront Edge – August 2009

Location: Terry A. Francois Street, between South Street and Mariposa

Project Manager: David Beaupre, david.beaupre@sfport.com, Ken Chu, kenneth.chu@sfport.com.

Background: This project is a part of the Blue-Greenway. The City's 2006 Blue-Greenway Task Force identified a series of open space improvements to benefit the City's southern neighborhoods and continue public waterfront access southward. A community planning process will be conducted to further define the extent of improvements, funding levels, and schedule for these or other projects that may be part of the Blue-Greenway.

Project Description: This Project will rebuild the Bay edge south of Pier 54 (currently fenced off) to allow the Mission Bay, Bayfront Park to be constructed to the water's edge, allowing over 1,000 feet of waterfront access.



Remarks: The Port contracted with Coast and Harbor Engineers to design and provide construction support for the project. Coast and Harbor Engineer is currently designing the project. The Port is working closely with the San Francisco Redevelopment Agency, the Mission Bay Development Group and their designers on the design and coordination of the shoreline improvements as it relates to the park.

	Budget	Current Appropriation	Paid to Date	Encumbered	Balance
Engineering / PM	431,063	431,063	82,633	281,293	67,137
Construction	2,200,000	0	0	0	0
Project Contingency	220,000	0	0	0	0
Estimated Project Cost	2,851,063	431,063	82,633	281,293	67,137

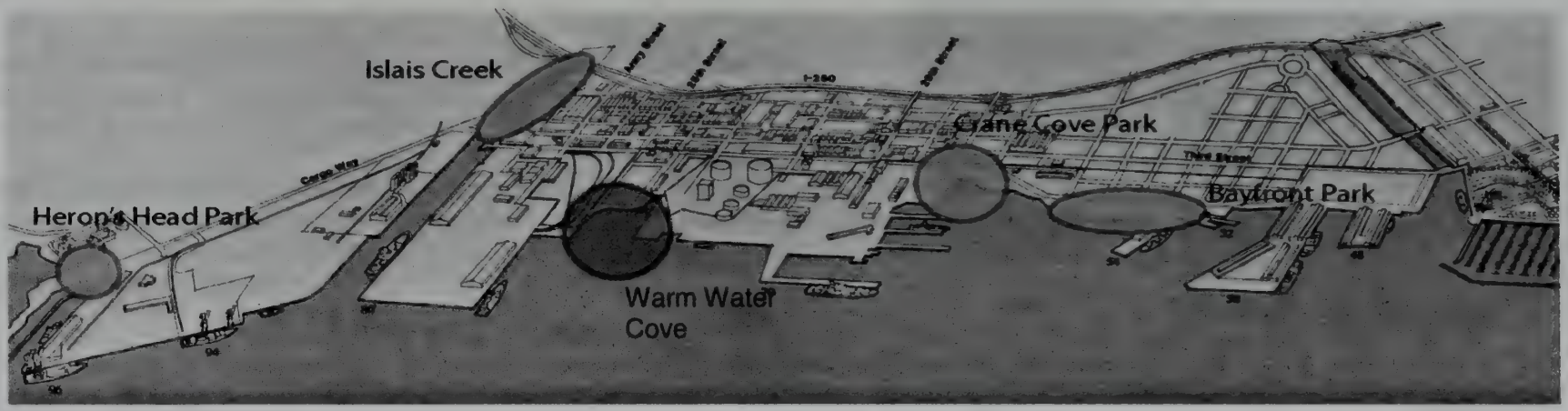
Bayfront Park

		Start	Finish	2008	2009	2010	2011
Design, Environmental Clearance and Entitlements	Baseline	Jan 2008	Dec 2008	12 months			
	Actual	Jan 2008	Dec 2008	12 months			
Construction Drawings	Baseline	Jan 2009	Oct 2009		10 months		
	Actual	Jan 2009	Oct 2009		10 months		
Bid/Award	Baseline	Nov 2009	Feb 2010			4 months	
	Actual	Nov 2009	Feb 2010			4 months	
Construction	Baseline	Mar 2010	Feb 2011			12 months	
	Actual	Mar 2010	Feb 2011			12 months	

Blue Greenway Planning and Design Standards – August 2009

Location: The Southern Waterfront, running from Pier 52 to Pier 98

Project Manager: David Beaupre, david.beaupre@sfport.com



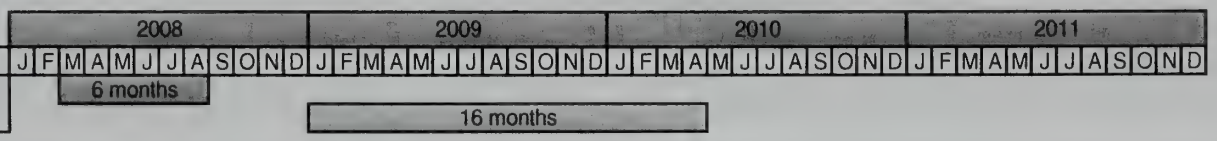
Project Description: The City's 2006 Blue-Greenway Task Force identified a series of open space improvements to benefit the City's southern neighborhoods and continue public waterfront access southward. Proposed Blue-Greenway projects on Port property that would be eligible to receive General Obligation bond funds include Bayfront Park at Mission Bay, Crane Cove Park at Pier 70, Warm Water Cove Park, projects on or near Islais Creek, and the Heron's Head Park entry area. Also eligible is the development of design standards for the Blue-Greenway and installation of wayfinding and site furnishings along the Blue-Greenway. Details on candidate Blue-Greenway projects are listed on the report for each individual project. The budget for the Blue-Greenway projects, inclusive of all constituent open spaces, is $21.5 million.

Remarks: Initially the proposal was to develop design standards for common elements of the entire Blue-Greenway network. However as the scope was refined, it was determined that it would be difficult to develop design standards without a better understanding of the entire scope of potential projects within the Blue-Greenway. Working with Port Commissioners, Mayor Gavin Newsom's Office, the Board of Supervisors, community members, open space advocates and interested citizens, the planning process was expanded to include the identification of open space opportunities, identification of programming (uses) options, identification of cost and the development of an implementation strategy to improve the Blue Greenway, including project prioritization. Because of the significant change of scope and the community outreach and coordination required to solidify the scope, the schedule for this task was delayed and the duration was expanded.

	Budget	Current Appropriation	Paid to Date	Encumbered	Balance
Community Planning	220,000	220,000	19,606	132,079	68,315
Signage, Furnishings Installation	550,000	550,000			550,000

Blue Greenway Design Standards

		Start	Finish
Community Planning	Baseline	Mar 2008	Aug 2009
	Actual	Jan 2009	Apr 2010



Brannan Street Wharf – August 2009

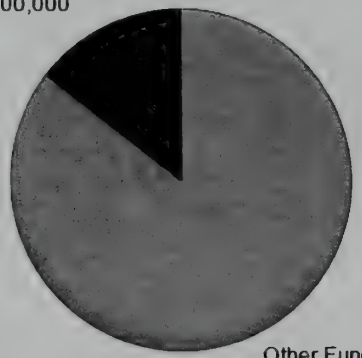
Location: Embarcadero and Brannan Street

Project Manager: Steven Reel, steven.reel@sfport.com

Background: On the water's edge in the South Beach area, at Brannan Street, the project area consists of approximately 850 linear feet of waterfront currently fenced off due to the poor, unsafe condition of the wharf.

Project Description: This project would replace the dilapidated Pier 36 and the former Pier 34 and marginal wharf with a new public wharf open space. Park features, as recommended by a citizen advisory committee convened for this project, include a neighborhood green space, a public float for small boats, and seating and picnic areas.

The Port is in the process of obtaining detailed construction costs for the Brannan Street Wharf design. As the project is currently envisioned, the project may cost more than the $20.6 million in secured funding. There is a $6 million federal earmark to help fully fund the Brannan Street Wharf project that, if approved, will fully fund the project.

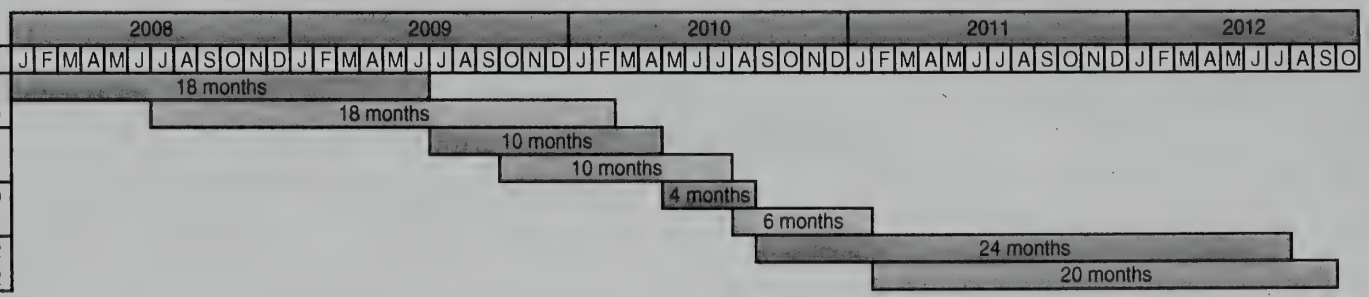


Remarks: Site investigations and conceptual engineering are complete. The design was presented to BCDC, WDAC and the community with positive results. Value Engineering is in progress and 35% design is expected to be complete by September 25, 2009.

	Budget	Current Appropriation	Paid to Date	Encumbered	Balance
Engineering / PM	3,043,560	3,043,560	399,847	1,355,048	1,288,665
Construction	15,217,800	2,652,084	0	0	2,652,084
Project Contingency	2,372,894	304,356	0	0	304,356
Estimated Project Cost	20,634,254	6,000,000	399,847	1,355,048	4,245,105

Brannan Street Wharf

		Start	Finish
Design, Environmental Clearance and Entitlements	Baseline	Jan 2008	Jun 2009
	Actual	Jul 2008	Feb 2010
Construction Drawings	Baseline	Jul 2009	Apr 2010
	Actual	Oct 2009	Jul 2010
Bid/Award	Baseline	May 2010	Aug 2010
	Actual	Aug 2010	Jan 2011
Construction	Baseline	Sep 2010	Aug 2012
	Actual	Feb 2011	Sep 2012



California Environmental Qualtiy Act (CEQA)– August 2009

Location: All Port Waterfront Parks

Project Manager: Diane Oshima, diane.oshima@sfport.com

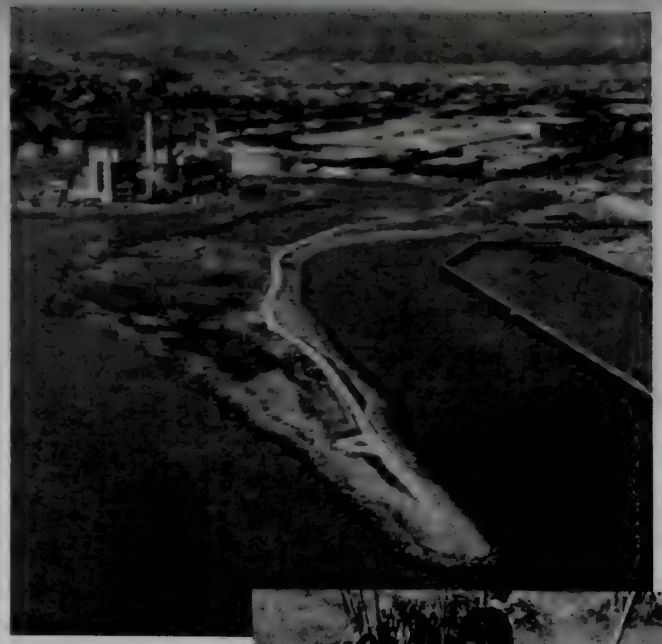
Status Report: The Port is working with the San Francisco Planning Department, Major Environmental Analysis (MEA) division to meet all review and documentation requirements under CEQA. The Heron's Head Park entry project was determined to be categorically exempt from CEQA. The Planning Department expects to complete a Final Negative Declaration in October 2009, which analyzes the environmental effects of the following Proposition A open space projects; Pier 43 Bay Trail Promenade, Bayfront Park shoreline improvements, and Blue Greenway open spaces and design guidelines. The Port filed an application in May 2009 to initiate preparation of a Supplemental Environmental Impact Report (SEIR) for the Brannan Street Wharf project. The preparation of CEQA documents are being coordinated with open space design and engineering studies to ensure the scope of the analyses reflect project refinements, and that the schedule for completing CEQA is integrated with construction design and implementation of the park projects.

	Budget	Current Appropriation	Paid to Date	Encumbered	Balance
CEQA Review	577,500	577,500	119,035	0	458,465

Heron's Head Park – August 2009

Location: Middle Point Road and Cargo Way

Project Manager: David Beaupre, david.beaupre@sfport.com



Background: This project is a part of the Blue-Greenway. The City's 2006 Blue-Greenway Task Force identified a series of open space improvements to benefit the City's southern neighborhoods and continue public waterfront access southward. A community planning process will be conducted to further define the extent of improvements, funding levels, and schedule for these or other projects that may be part of the Blue-Greenway.

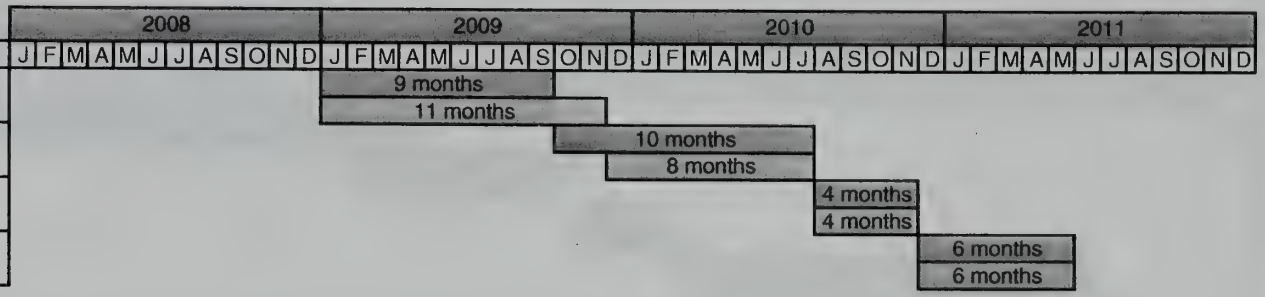
Project Description: This project creates an improved entrance and expanded park area to help visitors locate Heron's Head Park, located in the India Basin/Bayview Hunters Point neighborhoods.

Remarks: The Port has initiated the planning and design for this improvement, which will be coordinated through the Planning and Design Guidelines process. The Port will be developing the design through a community planning process and will utilize DPW staff to develop Construction drawings and specifications.

	Budget	Current Appropriation	Paid to Date	Encumbered	Balance
Engineering / PM		550,000	163	0	549,837
Construction		0	0	0	0
Project Contingency		0	0	0	0
Estimated Project Cost		550,000	0	0	550,000

Heron's Head Park

		Start	Finish
Design, Environmental Clearance and Entitlements	Baseline	Jan 2009	Sep 2009
	Actual	Jan 2009	Sep 2009
Construction Drawings	Baseline	Oct 2009	Jul 2010
	Actual	Oct 2009	Jul 2010
Bid/Award	Baseline	Aug 2010	Nov 2010
	Actual	Aug 2010	Nov 2010
Construction	Baseline	Dec 2010	May 2011
	Actual	Dec 2010	May 2011



Pier 43 Bay Trail Link – August 2009

Location: Embarcadero – Powell to Taylor Streets

Project Manager: Steven Reel, steven.reel@sfport.com

Background: Located along the Bay north of the Pier 43.5 Arch, this site is currently a sidewalk and parking lot. It was recently condemned by the Port because of its poor condition; the underlying seawall and adjacent sidewalk are in disrepair and close to failing.

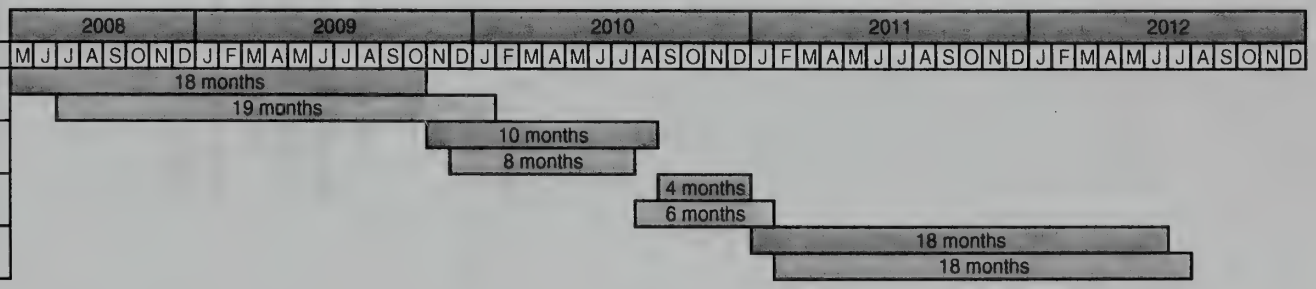
Project Description: The proposed project includes: (1) removing the piers and sidewalk back to the seawall, (2) repairing the seawall, (3) protecting the shoreline, and (4) building a new public promenade in the heart of Fisherman's Wharf, which will enhance the quality of the pedestrian experience and provide for an open space destination. The Promenade would feature tables, chairs and landscaping and views of Alcatraz and the historic rail arch. The Promenade would also close a gap in the San Francisco Bay Trail.

Remarks: Port advertised an RFP for final engineering design services and expects to select a consultant in October. Architectural design concepts are currently being completed by Port staff and will be presented at various design review meetings in September.

	Budget	Current Appropriation	Paid to Date	Encumbered	Balance
Engineering / PM	1,185,185	1,446,338	203,611	24,285	1,218,442
Construction	5,925,926	0	0	0	0
Project Contingency	888,889	0	0	0	0
Estimated Project Cost	8,000,000	1,446,338	203,611	24,285	1,218,442

Pier 43 Promenade

		Start	Finish
Design, Environmental Clearance and Entitlements	Baseline	May 2008	Oct 2009
	Actual	Jul 2008	Jan 2010
Construction Drawings	Baseline	Nov 2009	Aug 2010
	Actual	Dec 2009	Jul 2010
Bid/Award	Baseline	Sep 2010	Dec 2010
	Actual	Aug 2010	Jan 2011
Construction	Baseline	Jan 2011	Jun 2012
	Actual	Feb 2011	Jul 2012



PORT OF SAN FRANCISCO

MEMORANDUM

September 2, 2009

TO: MEMBERS, PORT COMMISSION
Hon. Rodney Fong, President
Hon. Stephanie Shakofsky, Vice President
Hon. Michael Hardeman
Hon. Ann Lazarus

FROM: Monique Moyer
Executive Director

SUBJECT: Informational Presentation on Taylor Street Improvement Project

DIRECTOR'S RECOMMENDATION: Informational Presentation – No Action Required

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INTRODUCTION

The purpose of this presentation is to provide the Port Commission an update on the Taylor Street Improvement Project. The Project involves pavement renovation, sidewalk improvement, installation of additional street lights, and related work along the section of Taylor Street from Jefferson Street to Embarcadero Street. A portion of a force main associated with the Pier 45 Drainage Improvements project has been incorporated in the Taylor Street Improvement project scope in order to expedite completion of construction work in Taylor Street.

BACKGROUND

In August 2003, the Port Commission reviewed and accepted the recommendations of the Fisherman's Wharf Planning Committee (Committee), made up of six San Francisco Bay Conservation and Development (BCDC) Commissioners – Commissioners Betsey Cutler, Richard Gordon, Anne Halsted (Committee Chair), Barbara Kaufman (BCDC Chair), Susan Leal, Aaron Peskin, and two Port Commissioners – Commissioners Sue Bierman and Kimberly Brandon. The Committee oversaw staff work on the Fisherman's Wharf Area Plan and guided development of these recommendations. The Committee's recommendations were the product of an 18-month planning process involving 16 public meetings, including workshops, a walking tour, a review of past plans and current policies for Fisherman's Wharf, and presentations of planning concepts. The public planning process defined improvements which, if provided by the Port and the City and County of San Francisco, would bring about public open space, pedestrian and transportation

This Print Covers Calendar Item No. 11B

improvements that would benefit the City and Bay Area region, as well as the entire Fisherman's Wharf area.

The proposed Taylor Street improvements, including widening of sidewalks, were identified in the Committee's recommendations as a project that would improve the quality of the pedestrian environment and experience in Fisherman's Wharf.

Taylor Street from Jefferson Street to the Embarcadero is a City accepted street and within the Port's jurisdiction. The existing street is approximately 270 feet long and is 36 feet wide from curb to curb. It has a loading lane along its entire western curb side, and has one north and one south bound travel lane. The existing street is deteriorated and lacks adequate drainage along its western curb, particularly in several sections where the curb riser height has been reduced from six inches to no riser at all in some places due to repaving over time. Pavement patches and general roadway settlement have created a drainage problem where water from storms or cleaning is no longer reaching catch basins. The sidewalk along the western side is approximately 10 feet in width. Immediately west of this sidewalk and marking the western limit of this project is an existing trench drain. The sidewalk area further to the west of the trench drain to the building face is under the control of local merchants and is used for food sales. There is no parking or loading available on the eastern side of the roadway.

The proposed project extends from the trench drain running along the edge of the west sidewalk of Taylor Street up to, and including, the east sidewalk of Taylor Street and involves:

1. Removing the existing trench drain, improving storm drain system, and improving and connecting existing lateral sanitary drain to street main sewer at Jefferson Street;
2. Repaving the existing sidewalk, changing slope to drain to street, and extend western sidewalk approximately 10 feet further to the east, thereby removing the loading lane and replacing it with a widened sidewalk. This will increase the sidewalk width from about 10 feet to an average of about 20 feet;
3. Constructing a new curb and gutter along the west side of the street and painting this curb red so as to not allow parking or loading;
4. Reconstruction of roadway with a concrete subsurface and asphalt topping. The new roadway will have two traffic lanes and will be reduced in width from approximately 36 feet to 26 feet;
5. Adding light poles along the western side of the street within the sidewalk; and
6. Installation of a force main required for the Pier 45 Drainage Improvement Project that will run along the eastern lane of Taylor Street between Little Embarcadero and Jefferson Street.

The San Francisco Department of Public Works (DPW) agreed to fund a project to renovate the Taylor Street road section to City standards in its FY 2008-09 budget. As per Port's request, DPW also agreed to include into this project the widening of the western sidewalk, along with the installation of additional street lights and related work, and the Taylor Street section of the Pier 45 Drainage Improvement Project force main. Project scope is as shown in Attachment A.

DPW design engineering efforts revealed that the existing roadway grade must be lowered by up to 18" in order to promote efficient surface drainage. DPW and Port staff have been working with utility agencies to complete necessary relocation work required to conform to the new roadway grade. PG&E completed its gas main relocation and lateral connection in June 2009, and will complete relocation of electrical vaults in the Taylor Street roadway by the end of September 2009.

DPW advertised the Project, and received four bids on August 19, 2009. A. Ruiz Construction Co. & Associate, Inc. ("ARC") is the lowest bidder. ARC's base bid plus Alternate is $1,213,193. If DPW awards the project to the lowest bidder, the total construction budget including 10% contingency is $1,334,512. The Port's share of this cost is $949,215.

On August 26, 2009, DPW staff received a bid protest from the second low bidder, M Squared Construction, Inc. ("MSC") to the lowest bidder ARC. MSC alleges that ARC failed to list a subcontractor to perform the boring and jacking work for the project, and that ARC is not qualified to perform the boring and jacking work itself. DPW gave ARC five working days to respond to this protest. MSC's base bid plus Alternate is $1,302,000. If DPW award the project to MSC, the total construction budget including 10% contingency is $1,432,000.

DPW is working to process the award of this contract. Port Staff requested DPW to expedite the contracting process, and to have the project notice to proceed (NTP) issued before October 10, 2009. The project construction time is seven months. If the NTP can be issued by October 10, 2009, the construction completion date will be May 2010. Port and DPW staff are concerned that the October 10, 2009 start date may not be achieved due to the bid protest.

REAL ESTATE

On January 17, 2008, Port staff held the first of four formal meetings with the Taylor Street restaurant tenants and other interested community members to discuss the scheduled improvement projects planned for Fisherman's Wharf and for Taylor Street specifically. The Pier 45 Stormwater project was also presented, which includes a new sewer line through Taylor Street.

The group discussed the condition of the roadway and sidewalk along Taylor Street and the need to re-grade, resurface, and improve drainage on the road. Port Real Estate staff explained that the roadway work would be a DPW project, necessary for public health and safety. Staff also described the work as an opportunity for the tenants to have the trench drain removed from their premises as part of the project. The trench drain was originally installed to allow drainage for the used water from the crab pots. Subsequently, the tenants installed direct-to-sewer plumbing to drain the crab pots and the trench drain was used to catch rainwater. This drain flows directly into the bay which is no longer permissible and must be removed to meet regulatory requirements.

The tenants had previously conveyed their concerns about the limited pedestrian access in this area. An expansion of the existing sidewalk will create a 20-foot wide pedestrian

promenade in front of their businesses, removal of the trench drain, and the introduction of new streetlights.

Tenants also inquired if there would be an offset to a loss in revenue caused by business interruption during construction. As a DPW project, the City does not compensate nearby businesses affected by their work. DPW and the Port agreed to work with the tenants to minimize impacts. These issues were resolved and presented at the third meeting held on June 11, 2009.

The sidewalk widening will eliminate one lane of on-street loading. Over a period of months, Port staff received feedback from the tenants that they did not want a curb cut in the new sidewalk area and that deliveries could be made from reserved parking spaces in the Triangle Parking Lot and on the north side of Fisherman's Grotto. Discreet ramps were designed into the sidewalk to allow push carts and small golf-cart type vehicles access onto the sidewalk.

The second tenant meeting was held on June 2, 2008 where DPW project managers further described the project, schedule, and tenant impacts during construction. At this meeting, the tenants strongly recommended that the work be done at night and that the outdoor crab stands remain open during construction. Curb cut options were discussed with the whole group present and the consensus was that the sidewalk should have the least possible intrusions to pedestrian traffic flow, including benches. Ever-expanding utilities relocation issues were discussed. Construction phasing was introduced to define and minimize the business and traffic impacts. A month later, DPW and Port staff postponed the project one year to be able to address the utilities issues.

The third tenant meeting, held on June 11, 2009, updated the group on the project schedule which now includes six separate utilities improvement/relocation projects (already started in Spring 2009) culminating in the sidewalk and roadway construction project. Revised project phasing was explained and the PG&E project manager described the issues involved with modifying the large underground electrical transformer that serves all of Taylor Street (west of Jefferson Street) and Pier 45.

DPW, PG&E, and the Port verified that all utility, sidewalk, and roadway construction will be performed in the early morning hours with vehicle access returned to full (phase 1) or partial service (phases 2 and 3) by 10:30 a.m. daily. Construction phasing was adjusted to reduce business and traffic impacts. DPW described how it would be able to remove the trench drain, reconnect the waterline and sewer laterals and build the new sidewalk while keeping the crab stands open. Tenants had previously agreed to install and maintain plastic sheeting across their stands to protect their food areas from dust.

Preliminary traffic and business access plans were described and the attendees agreed that a smaller group of tenants, Port, DPT and DPW staff would meet to further define and finalize these plans. Northbound vehicle access to the Triangle Parking Lot was deemed critical by the tenants. Tour bus and large trucks coming from the Pier 45 fish processing facilities will need to use Little Embarcadero exclusively during phase 2 and 3.

The fourth tenant community update meeting was held on September 2, 2009. The Port provided the tenants with a utilities installation overview, addition of the Pier 45 Force Main installation to the project, and the revised project schedule which pushes the anticipated completion date out one month to May 15, 2010. Tenants were informed of the upcoming Port Commission informational item and were invited to provide comments and support for the project. Port staff also distributed the phased traffic plans and set up a Traffic and Signage Committee to plan and meet with the contractor to optimize vehicle and pedestrian access to the businesses and the parking lot. DPW staff discussed the ongoing bid process and the delays to issue the Notice to Proceed (NTP) with the contractor. DPW staff also described the holiday construction moratorium, night work hours, and construction mobilization.

The tenants expressed concerns about the project running over the scheduled completion date and wanted to know if the project would be stopped in mid-construction should the work be delayed by issuance of the NTP, weather, or other circumstances. The Port replied that the NTP would need to be established before that decision could be made and that the contractor and DPW may have ideas and methods to reduce the project timeline to meet the mid-May completion goal. If the project was to proceed on schedule and weather delayed the work, Port staff indicated that once started, the project would proceed to completion and would not be stopped in mid-construction. The contract limits the time that the work can be done to 210 days and allows for liquidated damages beyond the completion date.

The project and schedule have also been presented to the broader Fisherman's Wharf community. Port staff provided project updates at the Fisherman's Wharf Waterfront Advisory Group and at the Fisherman's Wharf Community Benefit District Board of Directors meetings, both held on July 21, 2009.

Consensus by all meeting participants is that the project will benefit visitors, locals, and adjacent tenants. It will be the first of three Fisherman's Wharf pedestrian improvement projects. Taylor Street will become the western link between the Pier 43½ Promenade and the Jefferson Street Public Realm projects.

REGULATORY APPROVALS

Port staff have sought all the required permits for the Taylor Street Improvement project. The Port received BCDC approval for the project on July 6, 2009, and expects to receive a categorical exemption certification from California Environmental Quality Act (CEQA) from the Major Environmental Analysis Division of the City Planning Department by the end of September 2009.

FUNDING STATUS

Port staff have worked closely with DPW to establish an equitable cost sharing agreement for the Taylor Street Improvement project. DPW has agreed to assume costs for the street renovation to match the existing layout, along with appurtenant drainage improvements. The Port has agreed to assume the extra cost for its additional work associated with

sidewalk improvements, lighting, and the force main required for the Pier 45 Drainage Improvement Project, including appurtenant utility work.

As mentioned earlier, the project construction budget is $1,334,512. If the project is awarded to ARC, then the Port's share of the cost is $949,215. The cost breakdown for Port costs, including design, contracting, and construction management, is as follows:

$ 949,215	Construction Cost
$ 47,812	Water line work to be performed by San Francisco Water Department
$ 141,000	Design, Advertisement, and Contracting Cost
$ 175,676	Construction Management Cost
$1,313,703	Estimate Total Project Cost

The project is in bidding protest period. If DPW awards the project to MSC, the second lowest bidder, the Port's share of estimate total project cost will increase slightly.

The Port Commission approved $650,000 in capital project funding in Fiscal Year 2008/09 for Taylor Street Improvement project, and an additional $500,000 in Fiscal Year 2009/10. The following is a breakdown of available Port capital funds for this project-

$ 500,000	CPO681 Taylor Street Improvements, Port's FY 2008-09 Budget
$ 150,000	CPO782 Taylor Street Furnishing & Lighting, Port's FY 2008-09 Budget
$ 163,703	CPO228 Port Stormwater Pollution Control Program
$ 500,000	CPO782 Taylor Site Furnishing & Lighting, Port's FY 2009-10 Budget
$1,313,703	Total Available Funds for the Project

PROJECT SCHEDULE

The tentative project schedule anticipating NTP by October 10, 2009, is summarized below:

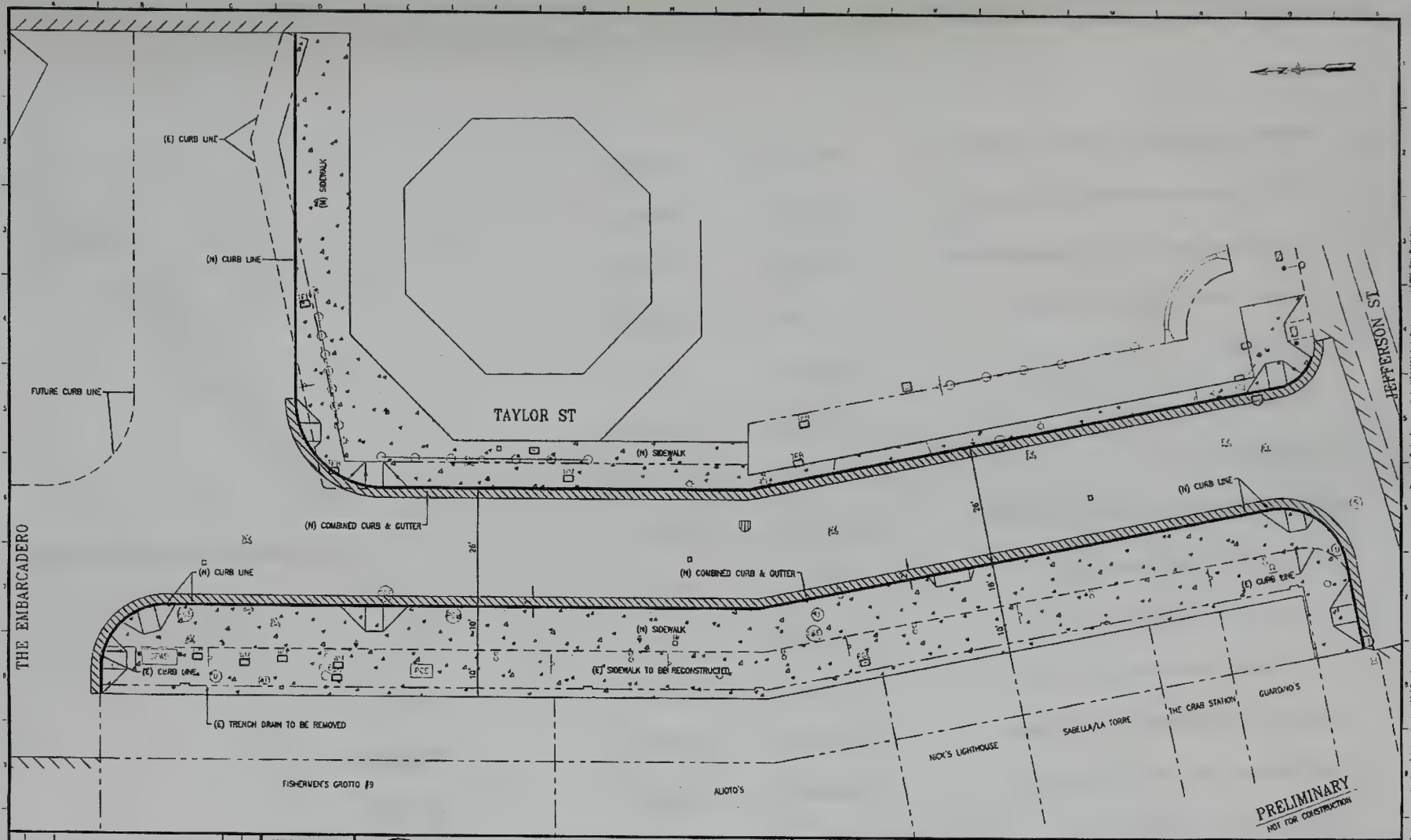
DPW Complete Design and Advertise the Project	July 8, 2009
Bid Opening	August 19, 2009
Construction Start	October 10, 2009
Final Completion	May, 2010

SUMMARY

This staff report is provided in order to keep the Port Commission informed of the developments associated with this project. Port staff will continue to work with DPW for the contracting and construction of project. At this time the project schedule is dependent on resolution of the bid protest and subsequent contract award.

Prepared By: Ken Chu, Project Manager
Dan Hodapp, Senior Waterfront Planner
Katharine Arrow, Senior Property Manager

For: Ed Byrne, Chief Harbor Engineer



NO.	DATE	DESCRIPTION	BY	APP

TABLE OF REVISIONS
CHECK WITH TRACING TO SEE IF YOU HAVE LATEST REVISION

REFERENCE INFORMATION & FILE NO. OF SURVEYS

BUREAU OF ENGINEERING
DEPARTMENT OF PUBLIC WORKS
CITY AND COUNTY OF SAN FRANCISCO

DESIGNED	DATE	APPROVED	
DRAWN	DATE	SECTION MANAGER	DATE
CHECKED	DATE	DEPUTY BUREAU MANAGER	DATE
		CITY ENGINEER	DATE

SCALE: 1" = 20'
SHEET OF SHEETS

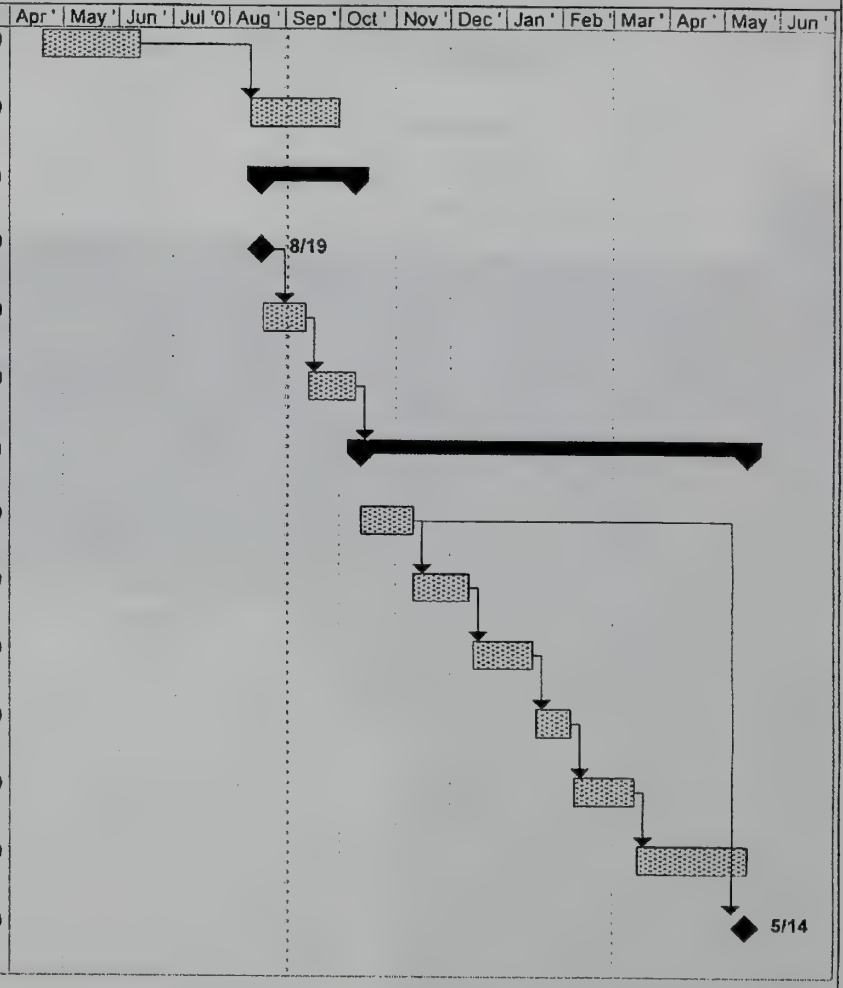
TAYLOR STREET IMPROVEMENTS
THE EMBARCADERO TO JEFFERSON STREET

PAVEMENT PLAN

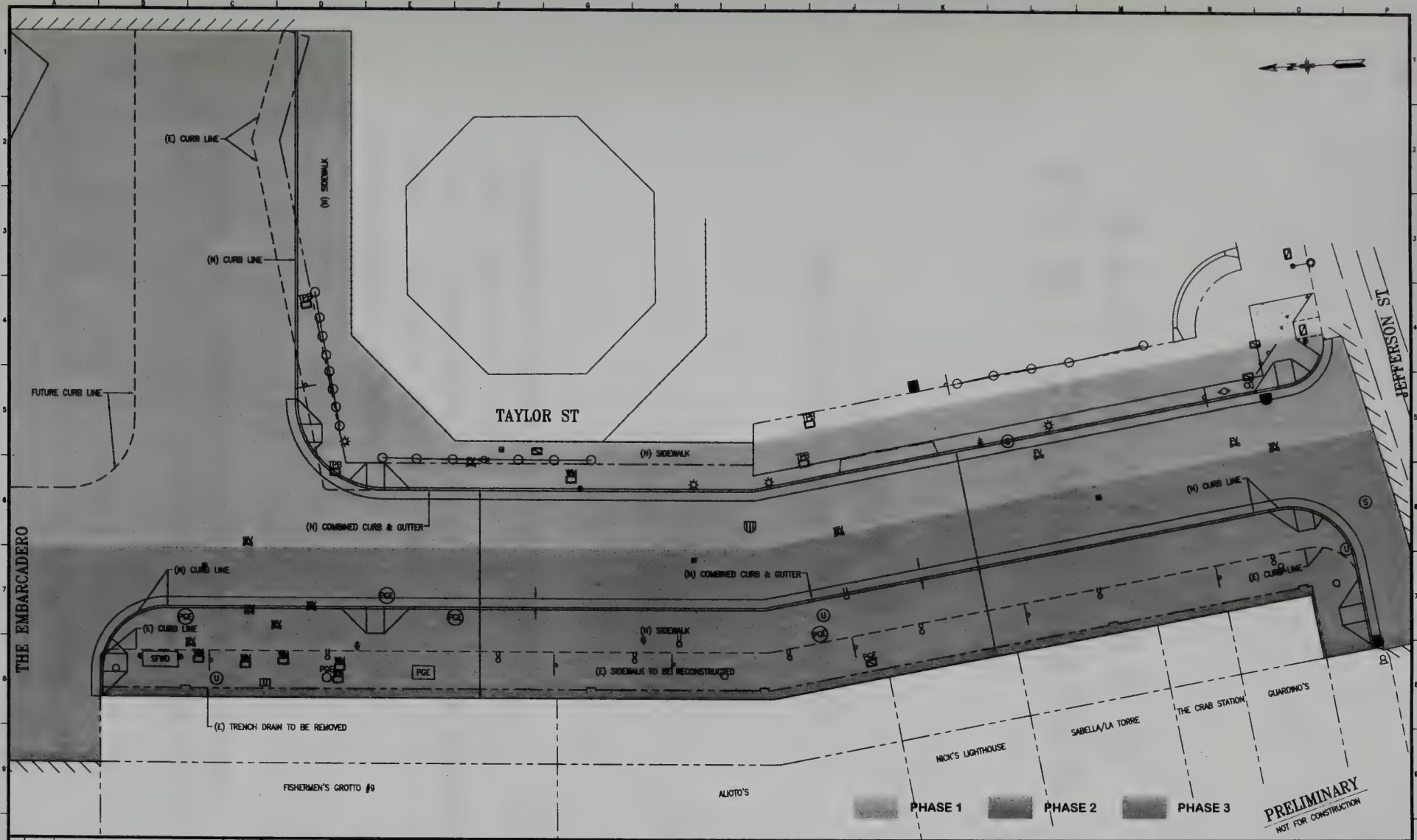
SPECIFICATION NO. 1458J
DRAWING NO.
FILE NO.
REV NO.

Taylor St. Improvement Proposed Projects Schedule

ID	Task Name	Start	Finish
1	PG&E comlete gas main relocation	Mon 4/20/09	Fri 6/12/09
2	PG&E electrical vault lowering construction	Thu 8/13/09	Wed 9/30/09
3	**DPW Taylor St. Improvement Contracting**	**Wed 8/19/09**	**Fri 10/9/09**
4	DPW Taylor St. Improvement Receive Bids	Wed 8/19/09	Wed 8/19/09
5	DPW Taylor St. Project Bid Protests *	Thu 8/20/09	Fri 9/11/09
6	DPW Taylor St. Project Contract Award	Mon 9/14/09	Fri 10/9/09
7	**DPW Taylor St. Improvement construction**	**Tue 10/13/09**	**Fri 5/14/10**
8	Force Main **	Tue 10/13/09	Tue 11/10/09
9	Gravity Sewer	Wed 11/11/09	Fri 12/11/09
10	Water Main	Mon 12/14/09	Fri 1/15/10
11	Phase 1, existing West sidewalk construction	Mon 1/18/10	Fri 2/5/10
12	Phase 2, west roadway and new sidewalk construction	Mon 2/8/10	Fri 3/12/10
13	Phase 3, east roadway and sidewalk construction	Mon 3/15/10	Fri 5/14/10
14	All works at Taylor St. Improvement completed	Fri 5/14/10	Fri 5/14/10



* The City received a bid protest from the 2nd lower bidder to the lowest bidder on 8/26/09. The City gives the protested bidder 5 working days to respond. A protest period is varied.
** The Force Main work may be scheduled into Phase 3 construction



NO.	DATE	DESCRIPTION	BY	APP.

TABLE OF REVISIONS
CHECK WITH TRACING TO SEE IF YOU HAVE LATEST REVISION

REFERENCE INFORMATION & FILE NO. OF SURVEYS

BUREAU OF ENGINEERING

DEPARTMENT OF PUBLIC WORKS

CITY AND COUNTY OF SAN FRANCISCO

DESIGNED DATE	APPROVED	SCALE	CHENERY STREET & LAIDLEY STREET PAVEMENT RENOVATION & SEWER REPLACEMENT
DRAWN DATE	SECTION MANAGER DATE	1" = 20'	SPECIFICATION NO. 0785J
CHECKED DATE	DEPUTY BUREAU MANAGER DATE	SHEET OF SHEETS	PAVEMENT PLAN
	CITY ENGINEER DATE		DRAWING NO. / FILE NO. / REV. NO.

SAN FRANCISCO PORT COMMISSION

SEPTEMBER 8, 2009
MINUTES OF THE MEETING

GOVERNMENT
DOCUMENTS DEPT

SEP 18 2009

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MEMBERS, PORT COMMISSION
HON. RODNEY FONG, PRESIDENT
HON. STEPHANIE SHAKOFSKY, VICE PRESIDENT
HON. MICHAEL HARDEMAN
HON. ANN LAZARUS

MONIQUE MOYER, EXECUTIVE DIRECTOR
AMY QUESADA, COMMISSION SECRETARY

CITY & COUNTY OF SAN FRANCISCO
PORT COMMISSION

MINUTES OF THE MEETING
SEPTEMBER 8, 2009

1. CALL TO ORDER / ROLL CALL

Commission President Rodney Fong called the meeting to order at 2:05 p.m. The following Commissioners were present: Rodney Fong, Stephanie Shakofsky and Michael Hardeman. Commissioner Ann Lazarus was not present.

2. APPROVAL OF MINUTES - August 11, 2009

ACTION: Commissioner Hardeman moved approval; Commissioner Shakofsky seconded the motion. All of the Commissioners were in favor; the minutes of the August 11, 2009 were adopted.

3. PUBLIC COMMENT ON EXECUTIVE SESSION

4. EXECUTIVE SESSION

A. Vote on whether to hold closed session to confer with Legal Counsel and Real Property Negotiator.

ACTION: Commissioner Hardeman moved approval; Commissioner Shakofsky seconded the motion. All of the Commissioners were in favor.

At 2:06 p.m., the Port Commission withdrew to executive session to discuss the following:

(1) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – This is specifically authorized under California Government Code Section 54956.8. ***This session is closed to any non-City/Port representative.****

a. Property: Pier 15/17 (Embarcadero at Green Street)
Person Negotiating: Port: Byron Rhett, Deputy Director, Planning and Development
*The Exploratorium: Dennis Bartels

Under Negotiation: _____ Price _____Terms of Payment X Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at Pier 15/17.

M09082009

5. RECONVENE IN OPEN SESSION

At 3:17 p.m., the Commission withdrew from executive session and reconvened in open session.

ACTION: Commissioner Shakofsky made a motion to adjourn executive session and reconvene in open session; Commissioner Hardeman seconded the motion. All of the Commissioners were in favor.

ACTION: Commissioner Shakofsky made a motion to not disclose any information discussed in executive session; Commissioner Hardeman seconded the motion. All of the Commissioners were in favor.

6. ANNOUNCEMENT OF PROHIBITION OF SOUND PRODUCING DEVICES DURING THE MEETING

The Commission Secretary announced that the ringing of and use of cell phones, pagers, and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic device.

7. EXECUTIVE

A. Executive Director's Report: Executive Director Monique Moyer reported the following:

- Ms. Moyer indicated that there are a couple of new additional lights in our room today because members from the SFGTV crew are filming this meeting. It is a pilot, so that does not mean that the film will run on TV as it does for other Commission meetings but should it work out, then it's the Port's hope that the Commission meetings can air on SFGTV's channels, which are cable channel 26 or cable channel 78, depending on what access you have.

- SPUR Brown Bag on Draft Pier 70 Preferred Master Plan - Wednesday, September 2, 2009 at 12:30 p.m. at SPUR Urban Center, 654 Mission Street, San Francisco

- SF Historic Preservation Commission Meeting on Draft Pier 70 Preferred Master Plan, Wednesday, September 16, 2009 at 12:30 p.m., City Hall

- SF City Planning Commission Meeting on Draft Pier 70 Preferred Master Plan, Thursday, September 17, 2009 at 1:30 p.m., City Hall

  SPUR held a brown bag meeting to discuss Pier 70 on September 2. Another one will be held on September 16 at the San Francisco Historic

Preservation Commission, followed by a presentation at the San Francisco City Planning Commission on September 17.

- Extension of the period to receive Public Comment on the Draft Pier 70 Preferred Master Plan – We want to afford members of the public who might be at any of those forums the opportunity to comment, so we have extended public comment period until October 13, 2009, which is the first Port Commission meeting in October.

- Coastal Clean Up Day – September 19, 2009 9 a.m. to 12 noon - Saturday, September 19, from 9 a.m. to 12 noon is the annual Coastal Cleanup Day. This is the largest statewide volunteer effort, and it's held annually on the third Saturday of September. So far in the history of the program, more than 13 million pounds of debris have been removed from the state's shorelines and coast, which is very critical to the wellbeing of our marine environment, as well as that of our land environment. Most of the time volunteers prefer to show up on the ocean side of the peninsula rather than the bay side, because the promoters or the cleanup day organizers have something called "help where help is needed." Last year, we had a fantastic turnout at the Port, and more than 11,000 pounds of trash and 7,000 pounds of recyclables were picked up. This year we'll be working at Mission Creek, Warm Water Cove, Islais Creek, the Wetlands, and Pier 94, as well as Heron's Head Park. We hope to see a lot of volunteers on this important day.

- Crystal Cruises – Homeport in San Francisco Summer of 2011 - The Port Maritime staff has been working to re-attract Crystal Cruises to home port in San Francisco. They haven't been here since 2005, with the exception of one singular call. Last week they confirmed 10 full calls in the 2011 summer season. They'll do nine round-trips of the Crystal Symphony to Alaska, and one trip from San Francisco to New York via the Panama Canal. That will be 10 trips in the summer of 2011, which is really outstanding news for the Port.

- Disney Cruises – New Cruise Call in Spring 2011 - Disney Cruises is taking possession of one of their new cruise ships, so that affords them the opportunity to have a ship on the West Coast. They announced in March that they'll be running itineraries out of the Port of Los Angeles. They have a scheduled program on September 11th, where we hope they will announce that they'll be visiting the Port of San Francisco, as well. We will keep the Commission posted.

- Queen Victoria Cruise Call – On January 27, 2010, the Queen Victoria, which is related to the Queen Mary II, will make a call at the Port of San Francisco. She's about two-thirds the size of Queen Mary II. She's still a pretty substantial ship, and we hope to have a great turnout when she calls in San Francisco.

- Ocean Policy Task Force Meeting - President Obama's administration officials are going to hold their Ocean Policy Task Force meeting at the Hyatt Regency in San Francisco on September 17, 2009 from 2:30 to 6 p.m. The meeting is open to the public. The task force is charged with developing a recommendation for a national policy that ensures protection, maintenance, and restoration of oceans, coasts, and the Great Lakes. We look forward to their work on the San Francisco Bay.

8. CONSENT

A. Request approval of No Fee License to Use Property No. 14731, approximately 665 square feet of the Pier 9 Marginal Wharf to be used solely for public access and for the installation of certain improvements, between the Port of San Francisco and the San Francisco Bay Area Water Emergency Transit Authority. (Resolution No. 09-50)

ACTION: Commissioner Hardeman moved approval; Commissioner Shakofsky seconded the motion. All of the Commissioners were in favor. Resolution No. 09-50 was adopted.

9. PLANNING & DEVELOPMENT

A. Request Adoption of the Required California Environmental Quality Act Findings and the Mitigation Monitoring and Reporting Program in connection with the lease of Piers 15 and 17 and the historic rehabilitation and redevelopment of Pier 15 by the Exploratorium, a California not-for-profit corporation (located on the Embarcadero at Green Street). (Resolution No. 09-46)

B. Request approval of the (1) Lease Disposition and Development Agreement; (2) Lease No. L-14711 for a term of 66 years; (3) Parking Agreement at Seawall Lot 321 for a term up to 16 years (located on the Embarcadero between Green, Union and Front Streets); (4) Curb Indent License No. 14714 at Pier 15 for a term up to 66 years; (5) Curb Indent License No. 14715 at Pier 17 for a term up to 66 years; (6) Curb Space License No. 14716 at Green Street for a term up to 66 years, all with the Exploratorium, a California not-for-profit Corporation; (7) Tripartite Agreement with Baydelta Maritime, Inc., a California corporation, and the Exploratorium for relocation of Baydelta Maritime, Inc.'s operations from Pier 15 to Pier 17; (8) Lease No. L-14605 for a term of 5 years with three 5-year options with Baydelta Maritime, Inc. for space at Pier 17; (9) Second Amendment to the Memorandum of Understanding, No. M-14396, with the San Francisco Municipal Transportation Agency; (10) Schematic Drawings; (11) Amendments to the *Waterfront Land Use Plan* and *Design* and *Access Element;* and Request authorization for Executive Director to file application with the San Francisco Bay Conservation and Development Commission for a Major Permit, all in connection with the lease of Pier 15 and a portion of Pier 17 (located on the

Embarcadero at Green Street) and the historic rehabilitation and redevelopment of Pier 15 by the Exploratorium. (Resolution No. 09-47)

Jennifer Sobol, Project Manager in the Planning and Development, requested Commission's approval of the Exploratorium relocation and historic rehabilitation project at Piers 15 and 17. Specifically, staff is requesting adoption of findings under the California Environmental Quality Act, the mitigation and improvement measures, and the mitigation monitoring and reporting program for the project. Staff is also seeking approval of certain amendments to the Port's Waterfront Land Use Plan, the schematic drawings, the transaction documents and authorization to file a BCDC application for a major permit.

Port staff and the Exploratorium have been working on this project for about five years. This is a major milestone in the process of obtaining entitlements and bringing the museum down to the waterfront.

Ms. Sobol introduced George Cogan, the Chairman of the Board of the Exploratorium, who will address the commission. She will return later to briefly summarize the transaction.

George Cogan, Chairman of the Board of Directors of Exploratorium, indicated that he's been involved in this project since its inception. He's very pleased to be here for this important milestone. He thanked Port staff for all of the hard work that they've put into making this happen, and to congratulate both of our teams for coming to this wonderful agreement.

He was pleased to announce that the Exploratorium has been making great progress in its own fundraising to make this project happen. They raised about $130 million to date, in spite of the difficult economic headwinds. He thinks that this milestone will be something that reignites momentum in our capital campaign, as well. They have many constituents who are waiting to see the Exploratorium have an agreement. This is a very, very important step in that direction.

On behalf of the entire Exploratorium, they look forward to a 66-year relationship, and even longer, with the Port. This is going to be transformational for the Exploratorium. It's going to increase their impact locally, regionally, and nationally. It's good for the city and good for the Port.

He introduced two of their team members, Janice Thatcher and James Suh from Wilson Meany Sullivan, who will talk a little bit more about the project.

Janice Thatcher thanked the following Port staff – Byron Rhett, Jennifer Sobol, Grace Park and Jonathan Stern -- for all their hard work and dedication as they've worked together over the past year on these transaction documents that are before the Commission today. It's a terrific project, and we look forward to breaking ground and seeing it all come together.

The Port Commission saw some of the elements of the design last month, which is going to be a terrific complement to all of the wonderful transformation of the waterfront. In addition to the team she just mentioned, there have been a lot of other people at the Port who've worked towards making this happen. Mark Paez has worked with them on the SHPO and National Parks Service approval; Dan Hodapp, Diane Oshima, with whom they've worked through the issues with the WDAC; a whole host of people in the Maritime department. It's a real partnership between our two organizations, and they look forward to working together as we break ground.

The project creates a lot of public benefits for San Francisco. Initially, they created about 78,000 square feet of public access in the first phase of the development, which at the full build-out goes up to 98,000 square feet. They opened up views to the Bay which do not exist today. There will be cafeterias and cafés as part of the project, which are publicly accessible to not only patrons of the museum but also the general public who's enjoying the exhibitory in the public access area. It's a transit-oriented development which is being planned as a neutral energy building.

James Suh, Wilson Meany Sullivan, brought a little fun piece that sort of exemplifies and personifies what's been very unique about this project. It's a collaboration between the internal creative staff of artists and scientists at the Exploratorium with their architectural team.

He showed an example of a study of one of many that's occurred. It's a gate that was planned for the site, which may or may not happen there but what's interesting about it is that each line actually represents the tidal fluctuations in a given day. Altogether, it also represents the tidal variations in one month, in 1969, basically the year that the Exploratorium first opened its doors and its gates to the public. So it's a bit symbolic.

What we're seeing today is that potentially this could be built full-scale. It sort of shows that the fluctuation of the bay is up to 8 feet in height. Most people don't realize that as they walk around the Embarcadero, they see the water, but don't really get that sense of that swing. So if you build it full height and you have someone standing next to it, they get a representation of seeing the water, understanding its height differential to the height of their own body.

This is one of the exciting things that the Exploratorium would love to bring to the site, all over, for free, and inside the building, as well. In the meantime, if you did not want to know anything about the science of it, it also has some interesting artistic interpretations, which in itself is very pleasing. Aesthetics is a very big part of the Exploratorium, as well. The Exploratorium is looking forward to creating similar experiences like this on the site.

Mr. Suh introduced Dennis Bartels, the Executive Director of the Exploratorium.

Dennis Bartels reiterated George Cogan's comments about how wonderful working with Port staff has been, and the fantastic leadership of the entire staff, including Monique Moyer, in bringing them to this moment today.

As he mentioned last month, it has been a long road. With Port staff's help, they now have an excellent project for the Port and the City of San Francisco that we can all be proud of. Some people would like to know some of the interesting changes to the Port and to the Exploratorium, this transformation will bring about. As many people already know, the Exploratorium was the very first science center of its kind, a participatory science center that led to the creation of 1,000 other science centers around the world. They have great worldwide interest from the science center community. They are interested in differences and changes they're going to make and the impacts and the changes they'll expect to see in these other science centers within a three, five, ten-year period after they start at their new home on the port.

They've also received more money from the National Science Foundation than any other non-university to do this research and development work, on learning, on teacher education, on non-profit management, and on science and art.

Obviously the biggest change for them is accessibility. This project puts them right in the middle of town, from the hard-to-reach north location that opens up the southeast part of the city, opens up the East Bay, opens up the peninsula in ways that they've never been able to do before. So not only will it double their capacity, but the very people who now will be able to come to the Exploratorium will be very different and much more demographically rich, the way the Bay Area is and they're very excited about that.

Being over the water, this is their launching point for the environmental sciences. They've done a lot of work with physics and biology but the environmental sciences and the ways in which this is going to impact us all as human beings and the human race over the next 20, 30, 40, 100 years. This is our home and our home base for the environmental sciences. How could it not be?

Another big change, of course, is they get to go outside. They will finally get to take that nature that they've been miniaturizing and bringing into the Exploratorium. They will finally get to bust outdoors and take nature at its full force: the winds, the tides, the sun, the fog, everything that comes with it. Their crew couldn't be more excited about going outdoors.

Another great gift the site provides for the Exploratorium is that they get to be the vital intersection for the creative community in San Francisco. They already have scientists, artists and many others. Down here, they will get to

invite in the new media community, the social scientists, other philosophers, other disciplines, to come together on a regular basis to talk about great ideas and ways in which these ideas can change and shape the world to come. They want to create a place where it common for all the creative individuals who are vital to this city's economy. Perhaps more than any other source of income is the creative culture that exists within San Francisco that makes it unique to the world.

They know that learning is changing. Education is de-institutionalizing. Universities and schools no longer have a monopoly on learning, let alone science learning. For instance, schools have children for about 1,000 hours of science instruction, but they get 3,000 hours of science exposure out of school, in after-school centers, or from their parents and the media, places like the Exploratorium. This is not just for this community; down here they can serve adults like they've never been able to. There's a reason to stay open in the evening and invite the adult community in. Things like science cafés and talks, and the Gordon Conferences and Aspen Institutes. This allows them to service the adult community as never before.

Finally, they're still an R&D institution. For instance, they had no idea that the Internet was coming but when it did, they were one of the first online, and have turned the Internet into one of the most popular science spaces in the entire cyberspace.

They needed a place where they can continue to do their pioneering R&D work in learning. Just as UCSF needed a home to stay on top of its field, the Exploratorium is still acknowledged as the leader in science center education and informal learning in the world. This allows them to stay on top of their game.

There's no place like San Francisco. They were born here, they belong here. They're so terribly pleased to be before the Commission today to ask for its vote, and to continue to ask for its support as they seek approvals from BCDC and State Lands.

Jennifer Sobol indicated that as the Commission is aware, Piers 15 and 17 are in some of the worst condition on port property. Pier 15 is severely deteriorated. There are many areas that are red-tagged, so they're load-restricted, which reduces the area that the Port can lease. This will be a good marriage, where the Port will get its properties restored and rehabilitated in conformance with the Secretary of Interior's Standards, and the Exploratorium will get a new, expanded home.

Staff is proposing to lease Piers 15 and Pier 17 on a long-term lease to the Exploratorium. Initially, the museum will be built in Pier 15. They will remove the connector building and open up the view, replace it with a new observatory building, which will still open up the views, allow for events and café. They'll build the museum inside of 15 and if in later years they decide

to expand, they can expand into Pier 17. In the meantime, they will sublease Pier 17 to other users, or use it for museum-related purposes for itself. Bay Delta Maritime, our tug and tow operator at Pier 15, will be relocated to Pier 17. Maritime uses will continue at the facility.

Recently, the Planning Commission certified the Environmental Impact Report and found that the project will not have a significant impact on the environment, because the mitigation measures will reduce all significant impacts to a less than significant level. The EIR and the findings are set forth in the resolution attached to the Staff Report.

Staff is also requesting certain amendments to the Waterfront Land-Use Plan. Currently, the plan requires removal of the connector building between Pier 15 and 17; of the valley, which is the paved parking area between the two piers; and the non-historic shed additions that were added to Pier 15 and Pier 17 in the 1950s.

The proposed project will not remove all of this fill. In order to conform the project with the plan, staff is seeking amendments to both the Waterfront Land-Use Plan and the design and access element. Those are set forth on pages 28 and 29 of the Staff Report.

The following transaction documents have been lodged with the Commission Secretary: the lease disposition and development agreement; the 66-year lease; a tripartite agreement between Bay Delta, the Port, and the Exploratorium; a new lease for Bay Delta at Pier 17; an amendment to the MOU with the Municipal Transportation Agency; a parking agreement with the Exploratorium; and three curb licenses.

The development agreement will go into effect as soon as the transaction documents are approved at the Board of Supervisors, and the Mayor signs a resolution, and the parties execute the development agreement. Then that will go into effect. It will take the place of what we're currently operating under, which is the exclusive negotiation agreement. That'll terminate, and then we will be operating under the development agreement. That development agreement will stay in effect throughout the construction of the project, and it will terminate after we record a certificate of completion. So when they've completed the improvements, we will record a certificate of completion, and then the development agreement terminates.

The development agreement does not give any leasehold rights or any possession of the property. It's simply a vehicle for providing what needs to happen in order to convey the lease, and provides several items which are set forth in the Staff Report. The lease will then be executed and go into effect if all of the conditions to close escrow under the development agreement are met. This will be handled through an escrow at a title company. The parties will execute the lease.

If all the other documents and all the regulatory approvals are obtained and all the evidence of financing is obtained to the Port's satisfaction, then escrow will close, the lease will be conveyed to the Exploratorium. They will take possession of Piers 15 and 17, and the lease will continue for 66 years.

There's a period of time when both documents will be in effect, and that's primarily during the construction period, the development agreement and the lease but then the development agreement goes away after the improvements are done, and then the lease will continue for 66 years.

The tripartite agreement does not require Board of Supervisors approval, and that will go into effect if it's approved today, and as soon as the parties execute it. If all of the conditions in that agreement are met, then the Exploratorium gets all of its approvals and we close escrow on the project. The Exploratorium will be required to build improvements for Bay Delta at Pier 17, repair the dilapidated north apron, dredge the basin, and Bay Delta will be required to move from Pier 15 to Pier 17.

The parking agreement will take effect when the museum opens. It doesn't go into effect until after construction, and that will continue until the 16th year of the lease term.

The curb licenses will go into effect when we close escrow. Under those licenses the Exploratorium will build curb indents. This will provide curb bus-loading and vehicle-loading for their visitors and schoolchildren. Those licenses are revocable, but they will be renewed automatically every year for a year at a time for the entire term of the 66-year term.

The Port is granting a 50-year rent credit on Pier 15 to reimburse the Exploratorium for the substantial and very significant costs for the substructure repair, and removing the removal requirements in the valley and the connector building. Pier 15 is severely deteriorated, and it's a very costly project. However, the port will be receiving percentage rent on Pier 15, especially if the museum is as successful as we all hope and expect it to be. It will be from a percentage of the revenues generated at the site. We will also have a guaranteed income stream on Pier 17 of at least $783,000 a year. The museum will get a new home, and the Port will get revenue stream on Pier 17, and we'll get our historic marine resources rehabilitated.

Ms. Sobol addressed some of the technical corrections on both the Staff Report and the resolutions. On page 14 of the Staff Report, the initial rent at Pier 15 should actually be $66,568 per month, not $65, 568. On page 25 of the Staff Report, the Pier 17 annual rent is $783,384, not $78,381. On page 7, under Section 2 in the third line, at the end of the line, the word "identified" is being changed to "significant." On page 9 of the Staff Report, the second-to-last bullet in the second line, after the words "tidal defect" we are adding the word "casualty." On page 10, the last bullet, we are eliminating the last

sentence, that both the contractor has to provide a performance bond and the Exploratorium has to provide this segregated bank account.

There are also some revisions to the resolutions. The CEQA resolution, which is 09-46, has been revised to mirror the City's standard format for CEQA resolutions. This new version is on file with the Commission Secretary, and the Commission was provided a copy. Ms. Sobol asked the Commission to approve this new substituted version. For the record, the revised Resolution 09-46 states:

Whereas, on July 9, 2009,the Planning Commission reviewed and considered the Final Environmental Impact Report (Final EIR) in Planning Department Case Number 2006.1073E, consisting of the Draft EIR and the Comments and Responses document, and found that the contents of the Final EIR and the procedures through which it was prepared, publicized, and reviewed complied with the provisions of the California Environmental Quality Act (CEQA), the CEQA Guidelines in Chapter 31 of the San Francisco Administrative Code, and found further that the Final EIR reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate, and objective, and that the Comments and Responses document contains no significant revisions to the Draft EIR; and certified the completion of the Final EIR in Motion No. M-17916, and as of the date of this Resolution, no one has appealed the Planning Commission's action; and

Whereas, the Port Commission has reviewed and considered the information contained in the Final EIR, all written and oral information provided by the Planning Department, the public, relevant public agencies, and the administrative files for the project and the Final EIR; and

Whereas, the project and Final EIR files have been made available for review by the Port Commission and the public, and those files are part of the record before the Port Commission; and

Whereas, the Planning Commission, Att'n: Viktoriya Wise, is the custodian of records, located in Case No. 2006.1073E, and those files are part of the record before this Port Commission; and

Whereas, Port staff prepared proposed findings, as required by CEQA ("CEQA Findings"), and a proposed Mitigation, Monitoring and Reporting Program which material was made available to the public and the Port Commission for the Port Commission's review, consideration and action; now, therefore, be it

Resolved, that the Port Commission has reviewed and considered the Final EIR and hereby adopts the CEQA Findings and attached to this Resolution as Exhibit 1 and incorporated by this reference; and, be it further

Resolved, that the Port Commission hereby adopts the Mitigation Monitoring and Reporting Program attached to this Resolution as Exhibit 2 and incorporated by this reference.

I hereby certify the foregoing resolution was adopted by the San Francisco Port Commission in its meeting of September 8, 2009.

Ms. Sobol addressed the minor edits to Resolution No. 09-47, a red-line version of which was lodged with the Commission Secretary and a copy was also provided to the Commission and to the public. On page 11 of the revised Resolution No. 09-47, top of the page, the first whereas, the words "Development Agreement, Lease and Schematic Drawings" were deleted and replaced with "Transaction Documents." On page 12 of the revised resolution, last whereas on the bottom of the page, the words "and for the reasons set forth" are inserted after the words "as presented." On page 13, 15 and 16 of the revised resolution, the word "material" is inserted before the words "business term."

Ms. Sobol indicated that this project was a product of a group effort. She thanked Port staff who have been very dedicated and very professional, and have assisted all these years on the project. She thanked everyone who have been involved, and thanked the Port Commission for their help and guidance. She thanked Bay Delta Maritime, the Pier 15 tenant. They've been very cooperative and we really appreciate their willingness to move out of their space before their lease expires so that they can accommodate this project. She thanked Mayor Gavin Newsom and his staff for their support on this project. Mayor Newsom sent a letter to Commissioner Fong dated September 8, 2009 in support of this project. Ms. Sobol paraphrased and read a couple of comments from the Mayor's letter.

"Today at your September 8 meeting, the Port Commission will consider approval of a lease and development agreement for the Exploratorium to locate its new home at Piers 15 and 17 along the city's northern waterfront. I consider this new museum to be one of the more important, unique, and exciting planned projects in San Francisco, and I enthusiastically urge the Commission to move forward with the approvals." "I commend the Port and the Exploratorium for the tremendous amount of work done to date to make this partnership a reality. I stand ready to do whatever possible to ensure this project is completed. Sincerely, Gavin Newsom, Mayor."

Ms. Sobol requested the following: adoption of the environmental findings under the California Environmental Quality Act, and adoption of the revised Resolution 09-46, as discussed; adoption of the mitigation and improvement measures, and the mitigation, monitoring, and reporting program, approval of amendments to the Port's Waterfront Land Use Plan and design and access element, as described in the Staff Report; approval of the schematic drawings and of the transaction documents; and of the revised Resolution 09-47, as amended, in conformance with the terms described in the Staff

Report, as amended; and authorization to file an application with BCDC for a major permit.

Ms. Sobol thanked the Exploratorium staff, Wilson Meany Sullivan, and all of the members of their team for their wonderful cooperation. It's been an exciting project to bring forward, and thanked them all for their efforts today.

ACTION: Commissioner Hardeman moved approval of Resolution No. 09-46; Commissioner Shakofsky seconded the motion.

ACTION: Commissioner Hardeman moved approval of Resolution No. 09-47; Commissioner Shakofsky seconded the motion.

Cathy Merrill, local landscape architect in the city and a longtime SPUR board member, sits on the Northeast Waterfront Advisory Group and is the current chair of NEWAG as the SPUR representative, lent her support to the Exploratorium for the development of Piers 15 and 17. NEWAG, as a liaison advisory group between the neighborhoods and the public and reports back to the Commission, has been extremely pleased with the relationship they've developed over the past five years. They are of those many organizations that they worked with in depth. NEWAG is not only appreciative of the continuous flow of information and plans that they receive, but also the responsiveness to the concerns of NEWAG or its representative neighborhood organizations, and the public that came to testify with them. In the Exploratorium plans before the Commission, they could readily see much of what was commented on and had concerns on. NEWAG is pleased and hopes that San Francisco will take advantage of this new and wonderful facility to the utmost.

Peter Winkelstein, representing SPUR, indicated that he has been involved in waterfront planning for many years, and is particularly pleased with the proposal for the Exploratorium on Piers 15 and 17. They've had several presentations and are very much in favor of the project, particularly in the urban design aspects of it. It's very well designed. It's opened up the bay in a very good way. They've also had presentations of some of the exhibits that were proposed. If you haven't seen them, you really should, because they're really very exciting and really make use of the Bay in a very positive and interesting way. The only comment that they're aware of has been of the observatory building at the end of Pier 15. It's appropriately designed. It maintains opening to the Bay, at least until the final phases. It fits in very well with the rest of the project. They are happy to support the project, and urged the Commission to approve it.

General Counsel Robert Bryan indicated that for Item 9A, the motion would be a motion to substitute the resolution, making CEQA findings as read by Port staff for the resolution first on file with the Commission Secretary as Resolution 09-46.

ACTION: Commissioner Hardeman moved approval of the resolution as amended; Commissioner Shakofsky seconded the motion. All of the Commissioners were in favor. Revised Resolution No. 09-46 was adopted.

General Counsel Robert Bryan indicated that for Item 9B, the motion would be a motion to amend Resolution No. 09-47, as proposed by Port staff.

ACTION: Commissioner Hardeman moved approval of the resolution as amended; Commissioner Shakofsky seconded the motion. All of the Commissioners were in favor. Revised Resolution No. 09-47 was adopted.

Commissioner Hardeman gave kudos to everybody involved on this project. It's a spectacularly wonderful project. He hasn't been so excited since the ballpark. This is about our city and how wonderful this is. This is going to be the new crown jewel of the waterfront. He's delighted that all the maritime components, working with the water, and especially Bay Delta Maritime worked out and the possibility of water taxis. He was in Sydney a couple of months ago, and he loved the water taxis. It would be great to have something like that here. He was delighted that the naval berthing and other berthing worked out as well. He thanked everyone involved for a job well done.
Commissioner Shakofsky thanked Port staff for their efforts. It's been an amazing long journey but it's not over yet. A lot of work has been put into it, and she's very thankful. She thanked the executive director and the chairman of the board for coming down today. It means a lot to the Commission to hear their support and their fundraising progress. The Exploratorium is a very rich and important community asset, and we are so excited to have it down here on the waterfront. Anything that advances science education is a big bonus in her book, and she's hoping they can take a little science education to BCDC as they move forward in this process. Lastly, she knows Commissioner Hardeman always thought we would get to this point today but he just didn't think he'd live to see it. She's particularly thankful on Commissioner Hardeman's behalf.

Commissioner Fong indicated that he got so excited about the item that he jumped right over the comment and went straight to the call for the questions. This is an important day for the Port and a very important day for the Exploratorium. The agreement with Bay Delta, the Exploratorium, and the Port is a good opportunity for folks who are visiting the Exploratorium to actually see what a maritime business is like, and see it right in front of them. This is a good marriage, a good mixture. From the educational point of view, it's fantastic. He thanked all the staff on both ends. There's obviously more work to do ahead but he's looking forward to seeing the Exploratorium on the waterfront.

10. REAL ESTATE

A. Request authorization to award, subject to Board of Supervisors' approval, two (2) three-year leases for surface parking between the Port of San Francisco and Tower Valet Parking, Inc. Lease No. L-14750 for Bid Opportunity A: Seawall Lot 301 commonly known as the Triangle Parking Lot, (bounded by Taylor Street, Jefferson Street, and Powell Street) and SWL 314 (bounded by the Embarcadero, Bay Street, and Kearny Street); with Priority Parking-CA, LLC, Lease No. L-14747 for Bid Opportunity B: Seawall Lots 322-1 bounded by Front Street and Broadway, SWL 323 bounded by Davis Street and the Embarcadero, SWL 321 bounded by Front Street, Green Street and the Embarcadero and SWL 324 bounded by Davis Street, Front Street and the Embarcadero, all located in the Northern Waterfront. (Resolution No. 09-48)

Jeff Bauer, Port Leasing Manager, Port's Leasing Manager, indicated that on March 5, 2009, the Port Commission authorized staff to publicly let two three-year leases for surface parking in the northern waterfront. Opportunity A consisting of Seawall Lot 301, commonly known as the Triangle Parking Lot, and Seawall Lot 314, located on the Embarcadero at Bay Street; Opportunity B consisting of Seawall Lot 322I at Front Street and Broadway, Seawall Lot 323 on Davis, Seawall Lot 321 at Green Street, and Seawall Lot 324 at Front Street and the Embarcadero. The successful bidder or bidders would be the one selected based on proposing the highest minimum rent for the opportunity, and meeting the minimum qualifications for experience and financial standing. On May 27, 2009, all bids were publicly opened and ranked according to the highest bid. The initial highest bidder subsequently withdrew its bid. Therefore, the two qualified highest bidders selected were Tower Valet Parking for Opportunity A, and Priority Parking California, LLC for parking opportunity B. Both companies are union-represented.

In the development of the bid offering, Port staff sought several goals: to provide various parking alternatives to the Port's diverse parking customer base, such as hourly, daily, and valet parking; to provide a better, more efficient parking program for a larger number of Port retail tenants and local merchants; to modernize each lease so that it complies with all city ordinances, including the requirement for the insulation of revenue-capture equipment; and finally, to provide the highest economic return to the Port of San Francisco.

In summary, under the new proposed leases, the Port will gain $1.6 million in incremental revenue in base rent, or $5.2 over the three-year term of the lease. This represents a 68% increase over the existing leases. Port staff anticipates a corresponding increase in percentage rent paid to the Port that may increase the net return to $7 million to the Port over the three-year term. Both new leases contain parking expansion options at the Port's sole request, subject to all lease terms where the Port is paid 68% of the gross revenues, net of parking taxes.

Port staff recommends that the Port Commission approves the two three-year leases for surface parking in the northern waterfront between the Port of San Francisco and Tower Valet Parking and Priority Parking California, LLC; and authorize the executive director to forward both leases to the Board of Supervisors for approval; and upon such approval, execute said leases.

Jeffrey Pollock, representing the Fisherman's Wharf Restaurant Association, the current organization that is running the Triangle Parking Lot at this time, indicated that they have operated the parking lot for the last 27 years. In at least the last 10 years, they have given, other than the operating expenses, all other monies to the Port. There is obviously no profit to their organization. They first heard about this RFP when it was issued. The Port never came to them and never sat down with them -- a 27-year tenant -- to communicate that they were going to put out an RFP and sought their thoughts on that. At the same time, they audited the lot, even before the RFP came out. They've been waiting for the audit for months now. They asked about the audit, and there doesn't seem to be any reply where the audit is or anything of that sort. When the RFP came out, they issued a letter stating that they were never the ones that set the rates at this lot. At any time, the Port could have come and asked to raise the rates. They did not. Again, in the 27 years they've been operating the lot, nothing has been brought to their attention that they are operating it incorrectly. Last century, he negotiated the percentage rent for most of these restaurants in this area on the port side with the Port of San Francisco. At the time they negotiated the percentage rent, they relied upon -- and it was stated -- that they would have that lot as their support parking for validated parking. Obviously, those are only for their cars. Any other cars are charged. They relied upon that, and that's the way they came up with the percentage rent. They also would like to state that support parking for 11 restaurants currently on the port side, they have somewhere around 200 spaces. Pier 39 has 600 spaces, and it's their support parking, yet he doesn't see that coming out to bid. Scoma's has a whole pier with support parking. When they bring that up they were told, "Well, that's the way it is. That's just the way it is." If this goes through, they believe it'll have economic impact. They're seeking remedies according to counsel if there is a negative economic impact.

Mr. Pollock asked Commissioner Fong to recuse himself for two reasons. Generally, because he is the President of the Community Benefit District, the Fisherman's Wharf Community Benefit District, which represents his organization.

Commissioner Fong reminded Mr. Pollock that his time is up.

Executive Director Moyer indicated that this is a parliamentary meeting. The Commissioner is running the meeting and she asked Mr. Pollock to give him respect.

Commissioner Fong indicated that Mr. Pollock's comments have been heard before this Commission meeting. He's had conversations directly with other restaurateurs, and understands the importance of the Triangle Parking Lot to the Fisherman's Wharf area to its tenants, the Port tenants. He understands, in many degrees, it is front door to many Fisherman's Wharf businesses. They've had several discussions with Port staff about it and are looking to try to accommodate Port tenants as best as possible.

Commissioner Shakofsky asked if the restaurant association responded to the RFP. Mr. Bauer replied that they did not respond to the RFP.

ACTION: Commissioner Hardeman moved approval; Commissioner Shakofsky seconded the motion. All of the Commissioners were in favor. Resolution No. 09-48 was adopted.

B. Request approval of Port Tenant In Good Standing Policy. (Resolution No. 09-49)

Susan Reynolds, Deputy Director of Real Estate, requested Commission's approval of the Tenant in Good Standing Policy. From time to time, the Port receives requests from its current tenants for additional benefits from the Port, in the form of extended leases, more leasehold space, or other amendment to their leases. To ensure clarity, equity, and consistency in considering such requests, Port staff recommends adoption of a policy delineating what it means to be a tenant in good standing. Port staff recognizes the benefit of clarity and equity when enforcing its leases, and recommends approval of this policy that is defined in the attachment to the Staff Report.

Joe Boss indicated that while he was very happy to see the Port continue to try to clarify a lot of its issues that over the years have caused clouds and accusations and good old boy stuff, he thinks it's a good to get a policy in good standing for leaseholders. He has an issue with #1 and #7 of the Policy. #1 of the policy states that the tenant is in current and in compliance with financial obligations of the lease, and all amounts due and payable have been paid on time as due. #7 of the policy states that the tenant has maintained the leaseholds in good condition, free from deferred maintenance. There is a way of clearing up all of the other issues. The tenant has ways of correcting or clearing their noncompliance but if someone has not been on time three times within a year within their leasehold, how do they correct that? They can't. It's been done but according to this policy, they could be considered tenants not in good standing. Then the issue of deferred maintenance. He would hate to see something like that in there that in long-term is so hard to determine what is deferred maintenance, and what is not. As people get closer to the end of their lease, they probably are not going to make the place as bright and shiny as it was the first day. He has difficulty getting his head around how staff -- there's always new staff, institutional knowledge goes away, and some of these things could turn around to be issues in front of the Commission that don't have to be in front of the Commission.

Commissioner Shakofsky indicated that the term "deferred maintenance" is potentially a problem.

Susan Reynolds replied that we have had in the past tenants that don't maintain the property over the term of their lease, and at the end of their lease, they seek favor to the Port to renew their lease. To protect the Port's assets, we, through the lease, enforce the covenants of the lease to maintain the property. If they do not maintain the property over the term of the lease, as required by the lease, they should not be extended benefit to continue without a remedy of fixing the deferred maintenance.

Commissioner Shakofsky indicated that she understands the concept but the term is kind of over-broad.

Susan Reynolds replied that we could change the verbiage.

Monique Moyer indicated that what we can use is "maintenance obligations." Every lease has a maintenance obligation, some more specific, more elaborate than others. To Mr. Boss' point, the property is to be returned looking as good as it looked on the day it was taken up. That's a material term of the lease. It's our fiduciary duty, in the staff's view, to hold our tenants to that standard. To Mr. Boss' point, since the definition of "deferred maintenance" can mean many things to many people, we can have it mean exactly what it means in the lease, which is "maintenance obligation" in the lease. That's where it would be more spelled out, as opposed to in the individual policy.

Commissioner Shakofsky asked about the ability to bring the rents up to standard.

Ms. Reynolds replied that we have a collection policy. For the chronic delinquents, we don't feel that they have earned the right to retain their tenancy, when it costs the Port a lot of resources and financial resources to carry the tenants' payments, and then only when they want an extended term do they want to buy that benefit back. So if they are a chronic delinquent, we're going to look at their ability to request extended term.

Commissioner Shakofsky asked if the Tenant in Good Standing Policy will be an addendum to the resolution.

Ms. Moyer indicated that currently when staff bring lease extensions, amendments, or renewals to the Commission for approval, one of the findings in the resolution is that the tenant is in "good standing," which is actually a legal term which deals specifically with payment. Port staff, as a matter of practice, have long had it mean compliance with all covenants in terms of the lease. This policy puts a clearer definition on it. She noted that at any point in time staff could bring a resolution that would waive something in this policy.

This is to help our tenants understand what is expected from them as they move forward. She elaborated that there are different definitions of how often one can be late before they are evictable. In the City's Renters Policy, it's three times in a nine-month period. The Port is far more generous than that. This would allow somebody to have a change of heart or a change of circumstances, but it doesn't provide for the Port to continually be their line of credit, and then turn around and extend them a benefit.

Commissioner Shakofsky reiterated that with this resolution, we're adopting a policy that essentially we already have in most leases, or at least currently in our new leases, that one must be a tenant in good standing for renewal.

Ms. Moyer indicated that in our findings that come in the resolution before the Commission, that's correct, since we don't contemplate on their own renewals other than their renewal option, which is usually a right the tenant already has. The only place you'd find it right now would be in a staff report and the accompanying resolution to the Commission. It's been coming to the Commission that way for a number of years now.

Commissioner Shakofsky asked if the definitions that are attached to the definition of good standing policy are what the Port will rely upon. Ms. Moyer replied affirmatively and added that it further delineates what the term in the resolution of the leases means, is that a tenant in good standing is this.

Commissioner Shakofsky indicated that there is some language that could be added to this policy. She asked if this item will be put over to the next meeting or can the Commission adopt the resolution and continue to work. This isn't a policy-guidance document for staff. It's not a legal document.

General Counsel Robert Bryan concurred with Commissioner Shakofsky in that this policy is meant only to be a guidance document. He opined that a tenant in good standing legally would be one who is in compliance with all the terms of the lease. This guidance documents sets forth parameters that the Port would follow within the lease, but not necessarily fully, 100 percent as required by the lease. It is something that the Port considers to be important enough to take action. So it's a guidance document only. It doesn't tie our hands under the lease, if there are other reasons why the City might want to take action under the lease if a tenant is not in good standing for other reasons.

Commissioner Shakofsky indicated that the issue that was raised was about some of the language in the policy. It is a little disconcerting for a renter. "Deferred maintenance" could mean not rolling in the garbage cans on Thursday and not doing it until Friday.

General Counsel Robert Bryan explained that "deferred maintenance," as the executive director explained, would be failing to comply with their maintenance obligations under the lease. That particular provision could read

as, "Maintain the leasehold in good condition, in accordance with the tenant's obligations under the lease." "Deferred maintenance" would normally be the tenant's maintenance obligations under the lease that have not been met.

Commissioner Shakofsky asked if that language or clarification could be added to the policy so the Commission can approve the policy today.

Ms. Reynolds replied affirmatively.

For clarification, Ms. Moyer indicated that in definition number seven, we will strike the words from the comma on, "free from deferred maintenance," and substitute it with following, "has maintained leasehold in good condition in accordance with the tenant's obligations under the lease." That's how we price our properties, with that expectation. They've gotten the benefit, and need to be consistent.

ACTION: Commissioner Hardeman moved approval; Commissioner Shakofsky seconded the motion. All of the Commissioners were in favor. Resolution No. 09-49 was adopted.

ACTION: Commissioner Hardeman moved approval of resolution as amended; Commissioner Shakofsky seconded the motion. All of the Commissioners were in favor. Resolution No. 09-49 was adopted.

11. ENGINEERING

A. Informational update on the Port's Facility Assessment Program.

Uday Prasad, Senior Civil Engineer, provided the Commission an update on the Port's Facility Assessment Program. In March 2007, he made an informational presentation about this program. During that presentation, he described the program's protocol, its objectives and findings. Today's presentation is to provide an update on the program activities since March 2007.

The program was launched in February 2002 by Port engineering staff. It is managed by the Port's Facility Assessment team. The Facility Assessment team performs assessments and records the structural condition of over 350 structures, which includes piers, wharfs, berthings, and sheds within the Port's jurisdiction. Inspection frequency depends on the type of building, material, occupancy or use of the facility. For each facility, assessment findings and recommendations are summarized in a report. The report makes recommendations for barricades, warning signs, and any load restrictions. It also documents maintenance and repair needs of the facility. Based on the structural condition, each facility's structure is assigned a structural rating, which is indicated by a green, yellow, and red coloring scheme.

A green rating indicates a good structural condition with no load restrictions. A yellow rating indicates the facility is in fair structural condition, and requires load restrictions and repair. A red rating indicates poor structural condition and unsafe condition. Pages 1 through 4 of the attachment in the staff report show structural ratings for all Port facilities starting from southwest to northeast.

Pages 1 and 2 of the maps show portions of Pier 50 valley, Pier 90, Pier 52, and some Pier 70 facilities which are currently red-tagged. The maps also show red-tagged areas such as portions of Pier 54 and Pier 92.

Page 3 of the attachment shows a structural rating of Port facilities from AT&T Park to Ferry Building. As shown on the maps, Pier ½, remaining portions of Pier 24, which is near Bay Bridge Tower, Pier 36, both aprons of Pier 38, and Pier 28 are currently red-tagged, while some piers such as Pier 40 have yellow ratings and hence load restrictions.

The last page of Attachment 1shows structural ratings of the Port facilities from AT&T Park to the Ferry Building. As shown on the maps, Pier 43½ and Pier 31 are currently red-tagged, while several piers, such as Pier 35, Pier 33, and Pier 31 are rated yellow, indicating load restrictions. Listed in Attachment 2 and 3 are facilities with red tags and yellow tags, respectively.

There are two slides in Attachment 4. The first slide shows a couple of pictures. If you look at the picture on your left of the slide, it shows one of the truss columns and the truss member that failed during the early part of this year. First, the Facility Assessment team performed a detailed investigation of the facility, and found extensive damage to the roof structural framing and supporting columns. Pier 31 was part of Mills' and Shorenstein's project a few years ago. In anticipation of future repair work being done by these projects, the Port did not allocate any capital funds for maintenance and repair of this facility. This has resulted in significant deterioration of roof membranes, rainwater leaks, and associated damage to roof truss members and column support. Except for the bulky portion in the front of Pier 31, the entire shed is currently red-tagged. Port Maintenance has installed shoring at some critical locations to stabilize the shed and prevent collapse. At present, Port does not have any funds identified for repair of this shed.

Page 1 of Attachment 5 shows part of a roof truss which didn't collapse, but it was almost at the point of collapsing. It happened sometime in March of 2008. Our maintenance crews immediately shored this portion by installing some wood support system. As a follow up, the Port hired Holmes & Cully, a structural engineering consulting firm, to perform a detailed investigation of the shed. Their investigation revealed a widespread wood infestation and superstructure and substructure structural deterioration/deficiencies which require repairs in the immediate future. The pier is still in shape to support the current operations. There is no need to discontinue any of the pier operations.

We have a plan to install some immediate shorings sometime in the next few months to stabilize some critical locations.

Port maintenance is currently doing the roof repair, and that project is expected to be completed by the end of this year. Following that, we plan to fumigate the entire shed. At this rate, we will continue the pier operations until sometime in the fall of 2010, when we'll start a complete rehab of the shed.

He showed pictures that show some of the infestations such as the wood corbel, which had deterioration due to the wood pests and a picture showing the location of the failure of the roofs, roof-ceiling membrane, and supporting columns.

The first photograph in Attachment 6 shows the Pier 50 valley substructure deck from underneath. The second picture shows the barricades set on the red tag portions of the valley. The Port hired a consultant, Winzler & Kelly engineers, to perform a detailed assessment of the substructure deck piles, beams, and slab panels. Their investigation work revealed that repairing the entire valley deck will cost around $7 million. In order to optimize the use of Port funds, Port staff, in making recommendations to repair only a portion of the valley, to accommodate two traffic lanes which will permit access to and from the maintenance shed, the existing K-rails, as shown on the last slide, will be replaced with architectural railings. The unrepaired sections will include light planter boxes. The cost of these limited repairs and improvements is in the range of $1.5 million. Port staff is planning to use revenue bond money to fund these limited long-term repairs.

Besides these major investigations, the Facility Assessment team conducted several other assessments. These assessments have resulted in a number of capital repair projects. These projects, which are at various stages of design and construction, include Fisherman's Wharf Fuel Dock repair, Wharf J9 seawall and deck repair; and repairs of aprons at Piers 19, 33, 26, 28, and 50. Port staff plan to use Port maintenance resources in some of these projects, while others will be undertaken by our tenants and the others will be executed by outside contractors.

The Facility Assessment Program provides valuable information related to the condition of the Port facilities. This information is used to identify health and safety issues, and repair and maintenance needs. This information helps Port staff in making critical decisions, as it relates to asset management.

The program findings were used in the formulation of the Port's 10-year Capital Plan, and provides the basis for updates to the Port's Capital Plan. As some people might have heard, the Bay Bridge opening was delayed by one day because, during this weekend closure, they found out one of the steel link had a crack. He emphasized the importance of inspection -- it plays a great role -- and to identify the health and safety risks.

Commissioner Hardeman indicated that he finds it amusing that nobody chuckled when Uday said, "some of you might have heard about the crack in the steel link." He thought that was an understatement. He commended Uday for a great presentation.

B. Informational presentation on the Taylor Street Improvement Project.

Ken Chu, Project Manager, Project Manager for the Taylor Street Improvement Project, introduced Katharine Arrow, Senior Property Manager, and Dan Hodapp, Senior Waterfront Planner. They worked together on this presentation and they will each address the Commission on their specific areas of responsibility.

The project involves pavement renovation, sidewalk improvement, installation of additional street lights, and related work along the section of Taylor Street from Jefferson to Embarcadero. Taylor Street from Jefferson to the Embarcadero is a City accepted street and within Port's jurisdiction.

DPW and Port staff have been working with utility agencies to complete necessary relocation work required to conform the new roadway grade. PG&E completed its gas main relocation and lateral connection in June 2009 and will complete relocation of electrical vaults in the Taylor Street roadway by the end of September 2009.

Mr. Chu showed the Commission the proposed project schedule for this project. Port staff hope to complete Phase 1, existing west sidewalk construction, in February 2010 and Phase 2, west roadway and new sidewalk construction in March 2010. Phase 3, east roadway and sidewalk construction, estimated completion date is May 2010. Before Phases 1-3 can be done, the utility work must be done first.

DPW advertised the project in July 2009 and received four bids on August 19, 2009. On August 26, 2009, DPW received a bid protest from the second lowest bidder. DPW is addressing the bid protest and will try to resolve the matter by the end of this week and will work to process the award of this contract. Port staff requested DPW to expedite the contracting process and to have the Notice to Proceed issued before Columbus Day.

Dan Hodapp, Planning and Development, indicated that the Taylor Street Reconstruction is one of several projects being undertaken by the Port to improve the quality of the experience for visitors at Fisherman's Wharf. This project was first identified in the 2003 Planning Committee "Recommendations" for Fisherman's Wharf. The Committee, who was comprised of Port Commissioners and BCDC Commissioners, made recommendations to improve access to Fisherman's Wharf and to improve the quality of the pedestrian environment. The Taylor Street project is to rebuild the 270-foot length of Taylor Street between Jefferson Street and The Embarcadero Roadway. After the Pier 45 sewer replacement project is routed

through Jefferson, Jefferson would be completed, reconstructed in a manner that resolves its drainage problems and improves conditions immediately adjacent to the Taylor crab pots. The loading lane along the west edge would be removed and converted to sidewalk space, reducing the roadway width from 36' to 26'. The new loading would be provided in 2 locations. New curbs and light poles on both sides. Traffic flow would be improved by more strategically locating crosswalks. The intersection of The Embarcadero would be realigned to reflect how it would meet the Pier 43 Promenade project and to establish a clear intersection for vehicles and pedestrians in front of Pier 45 and for the millions of pedestrians visiting Taylor Street every year.

Katharine Arrow, Senior Property Manager for the North Waterfront, indicated that Port staff held four major meetings with adjacent businesses and Taylor Street tenants, and several one-on-one meetings starting in January 2008. The most recent meeting was held on September 2, 2009. The project descriptions and updates were provided at each meeting, and the tenants conveyed to staff their concerns and their requests to mitigate the project's impacts to their businesses.

The critical issues for the tenants that we were able to include in the project are: work will be done at night, starting after midnight and finishing by 10 a.m. There will be a holiday moratorium from Thanksgiving through New Year's that will ensure that no major demolition occurs during this season. The crab stands can remain open during all phases of construction. Project phase one, designed to minimize construction time near the crab stands, will last under one month, and more likely two weeks, weather-permitting.

Phase 1 and 2 will be completed by mid-March, in advance of spring break. Northbound vehicle access off of Taylor to the Triangle Lot will be maintained and open to the public by 10:30 every day. An advisory group has been formed consisting of tenant representatives, DPT, DPW, and Port staff to further define the traffic and signage plans for phase one, two, and three. Permanent delivery and service vehicle parking will be provided in the Triangle Lot and on the north side of Fisherman's Grotto restaurant.

The group consensus is that the project will benefit the businesses and visitors to the wharf. Tenants ask that the Port and DPW be cognizant of their operations and the impacts a protracted project schedule could cause, should it run into the tourist season. Ms. Arrow thanked the tenants for their participation during this project development phase.

Ken Chu indicated that the Port Commission approved $650,000 in capital funding in FY 2008-09 for the Taylor Street Improvement and additional $500,000 in FY 2009-10. $163,700 is from the Port Storm Water Pollution Control Program, for a total of $1,313.703. The total estimate of project cost was a little higher than before. Staff worked with the construction management group and lowered the construction management fee for the

project. If everything goes as smoothly as planned, the project is going to be completed by May 2010.

Commissioner Fong indicated that there's a lot of work to be done. He commended Port staff for working with all of the Fisherman's Wharf tenants that are directly affected. He encouraged the Port and DPW to get this project finished on time. If it goes beyond the May completion deadline, the tenants will start to feel the impacts of the project being delay. He appreciates the fact that the work is being done at night and the avoidance of holidays, which probably delays the completion.

12. FINANCE AND ADMINISTRATION

A. Informational Update on the Port's 2008 Clean and Safe Neighborhood Parks General Obligation Bond Program.

Tina Olson, Deputy Director Finance and Administration, provided the Commission a brief update on the progress that the Port has been making on the 2008 Clean and Safe Neighborhood Parks Bond. It was a commitment we made in the ordinance that created the bond. Port staff will provide the Commission quarterly updates. Port staff also submits monthly reports that are posted on the Recreation and Park Department's web site, as well as my annual reports to the City's General Obligation Bond Oversight Committee. I'm going to just start it off quickly.

There was $185 million general obligation bond that was on the February ballot and approved by the voters. It included $33.5 million for waterfront parks on Port property. To date, we have issued the first issuance. It was approximately $3.6 million for Port projects. Between actual expenditures and commitments and encumbrances, we've spent $939,000. We've got $2.7 million remaining primarily in the Pier 43 Bay Trail Project.

That was the first bond. We are now preparing for a second bond sale. It was initially in November, but it looks like we'll probably be doing it in January. It'll primarily fund construction of the Pier 43½ project, and construction of the Bayfront Park project, and then design for the Blue Greenway projects.

Steven Reel, Project Manager for the Brannan Street Wharf and Pier 43 projects, showed the Commission the master schedule of all the GO Bond projects. They're mostly in the design stages right now. The Brannan Street Wharf is located between Piers 32 and 38. It's a new waterfront park. It includes the demolition of Pier 36, the Marginal Wharf at the former area of Pier 34. When he last discussed this project, we were approximately $4 to $7 million over budget. We have a $20.6 million total project budget of which $3 million is from the GO Bond. We're still $4 to $7 million over budget. We have moved into 30% design, which we expect to be completed by the end of this month. We're also completing our community review process and our design review process with BCDC. We hope to finish that up this month.

At the end of 30 percent, we have another cost estimate. It'll be a bit more detailed. We hope to, through some value engineering, find that our projected construction costs have come down a bit. We also have been pursuing an additional $6 million in funding through a federal earmark, thanks to Speaker Pelosi. Now that Congress is back from recess, we may hear about that in the coming month. We are currently on schedule. Environmental review is behind schedule, but it's not on the critical path. We hope to finish that up just in time for our bid documents in August 2010. We expect to go out to bid in August 2010 with a construction start in January 2011. We'll complete construction by September of 2012.

Pier 43 Bay Trail Link also has been referred to as Pier 43 Promenade or Pier 43½ Promenade. This is a project that will demolish a portion of Pier 43 and a Half, restoring views to the waterfront to Alcatraz. It will protect the shoreline by strengthening or replacing the existing timber seawall. We are currently reviewing proposals for design. We will select a design consultant next month, and staff will be coming back to the Commission for approval. This is an $8 million project, all of which is GO Bond-funded. We are currently on schedule, and we are on budget.

Commissioner Fong indicated that he thought Pier 43 had a pretty good head start on the timeline but have slowed back a little bit. He thought he heard that 43 was ahead as far as completion date.

Steven Reel replied that we're not ahead as far as completion date. We're basically right on schedule. We've slipped a little bit in our preliminary design, and hiring a consultant for final architectural engineering services but we're looking at accelerating the process from here on out. It looks like we can finish up on schedule. We're looking at starting construction essentially at the same time we'd start construction at Brannan Street Wharf.

Commissioner Fong indicated that a completion date of January, February or March 2010 would be a very big quarter, as far as many of these projects coming online at that time.

Steven Reel replied that the completion date will be July of 2012. We have a 19-month construction schedule. We're hoping to shrink that a little bit. We're still looking at July 2012 at this point, particularly since we haven't started detailed design, and we don't have the consultants selected yet.

13. NEW BUSINESS / AGENDA SETTING

Ms. Moyer indicated that there are seven items scheduled for the September 22, 2009 meeting and reminded the Commission that we're back on our two-times-a-month meetings.

14. PUBLIC COMMENT

Commissioner Hardeman commended the executive director for choosing to put in the articles from the *Organized Labor* Paper under communications. Paul Burton did a fantastic job on the cruise ship terminal and the Exploratorium articles. Port staff, especially John Doll and whoever contributed to the articles, did a good job in preparing him. The articles were very good.

15. COMMUNICATIONS

16. ADJOURNMENT

ACTION: Commissioner Hardeman moved approval; Commissioner Shakofsky seconded the motion. All of the Commissioners were in favor.

Commission President Rodney Fong adjourned the meeting at 5:07 p.m.

SAN FRANCISCO PORT COMMISSION

Rodney Fong, President
Stephanie Shakofsky, Vice President
Michael Hardeman, Commissioner
Ann Lazarus, Commissioner

Monique Moyer, Executive Director
Phone: 415-274-0400; Fax: 415-274-0412

Amy Quesada, Commission Secretary
Phone: 415-274-0406; Fax: 415-274-0412

AGENDA
TUESDAY, SEPTEMBER 22, 2009
2:30 P.M. CLOSED SESSION
3:15 P.M. OPEN SESSION
PORT COMMISSION HEARING ROOM, SECOND FLOOR
FERRY BUILDING, SAN FRANCISCO, CA 94111

Please note the time of the meeting

The Port Commission Agenda as well as Staff Reports/Explanatory Documents available to the public and provided to the Commission are posted on the Port's Website at www.sfport.com. The agenda packet is also available at the Pier 1 Reception Desk.

If any materials related to an item on this agenda have been distributed to the Port Commission after distribution of the agenda packet, those materials are available for public inspection at the Port Commission Secretary's office located at Pier 1 during normal office hours.

09-18-09P01:11 RCVD

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1. **CALL TO ORDER / ROLL CALL**

2. **APPROVAL OF MINUTES** - September 8, 2009

3. **PUBLIC COMMENT ON EXECUTIVE SESSION**

4. **EXECUTIVE SESSION**

   A. Vote on whether to hold closed session to confer with Legal Counsel and Real Property Negotiator.

      (1) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – This is specifically authorized under California Government Code Section 54956.8. ***This session is closed to any non-City/Port representative.****

         a. Property: Pier 15/17 (Embarcadero at Green Street)
            Person Negotiating: Port: Byron Rhett, Deputy Director, Planning and Development

A09222009

*The Exploratorium: Dennis Bartels

Under Negotiation: _____ Price _____Terms of Payment X Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at Pier 15/17.

5. RECONVENE IN OPEN SESSION

A. Possible report on actions taken in closed session pursuant to Government Code Section 54957.1 and San Francisco Administrative Code Section 67.12.

B. Vote in open session on whether to disclose any or all executive session discussions pursuant to Government Code Section 54957.1 and San Francisco Administrative Code Section 67.12.

6. ANNOUNCEMENTS

A. **Announcement of Prohibition of Sound Producing Devices During the Meeting**

Please be advised that the ringing of and use of cell phones, pagers, and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic device.

B. **Announcement of Time Allotment For Public Comments**

Please be advised that a member of the public has up to three minutes to make pertinent public comments on each agenda item unless the Port Commission adopts a shorter period on any item.

7. EXECUTIVE

A. Executive Director's Report
- In Memoriam – Fred Henning, General Manager of Bay & Delta Maritime
- Passage of AB 1176, Port's Infrastructure Financing District at Pier 70
- Deep Sea Encounter, a Telegraph Hill Dwellers' Underwater Soiree & General Membership Meeting at Aquarium of the Bay at Pier 39 – September 28, 2009 at 6 p.m.
- San Francisco Planning Commission's Walking Tour (4:30 p.m.) and Community Workshop (6 p.m.) on the Northeast Embarcadero Study – September 30, 2009
- *Saving the Bay* Premier on KQED 9HD on October 8 & 15, 2009 at 8 p.m.
- Closure of Herring Season

- John Frawley, President and Chief Executive Officer of Bay Institute
- Commendation for Jim Chappell, Citizen Planning Institute Director at SPUR, on his retirement

8. REAL ESTATE

A. Request approval of Amendment to the Fisherman's Wharf Street Performer Program to allow a three-month trial period for three exclusive use designated performance locations (Locations 5, 7, and 12) for spray paint artist's performances. (Resolution No. 09-51)

B. Request approval of resolution rescinding Resolution No. 09-48 adopted by the Port Commission on September 8, 2009. (Resolution No. 09-52)

C. Request authorization to award, subject to Board of Supervisors' approval, two (2) three-year leases for surface parking between the Port of San Francisco and Tower Valet Parking, Inc. Lease No. L-14750 for Bid Opportunity A: Seawall Lot 301 commonly known as the Triangle Parking Lot, and SWL 314 (Resolution No. 09-53); with Priority Parking-CA, LLC, Lease No. L-14747 for Bid Opportunity B: Seawall Lots 322-1, SWL 323, SWL 321 and SWL 324, all located in the Northern Waterfront. (Resolution No. 09-54)

9 PLANNING & DEVELOPMENT

A. Request approval to enter into a license without fee agreement with the United Humanitarian Mission organization to allow permanent installation of a commemorative plaque permanently installed adjacent to The Embarcadero Promenade at the Pier 7 wharf area, near Broadway Street. (Resolution No. 09-55)

B. Informational presentation regarding San Francisco Municipal Transportation Agency's Bike Plan as it relates to Port property. (VERBAL REPORT)

10. ENGINEERING

A. Informational presentation on the Port's Americans with Disabilities Act (ADA) Self-Evaluation and Transition Plan.

B. Request authorization to award Construction Contract No. 2721, 401 Terry Francois Boulevard Americans with Disabilities (ADA) Upgrades Project to Gold Spring Construction Corporation in an amount not to exceed $297,600. (Resolution No. 09-57)

C. Request authorization to advertise for competitive bids for the Pier 45 Drainage Improvements Project, Contract 2719. (Resolution No. 09-58)

11. MARITIME

A. Request authorization to submit to the Foreign Trade Zone Board an application for Alternative Site Framework Modification No. 1 of Foreign Trade Zone No. 3 for General Zone administrative self-management, improved integration with the City's Office of Workforce and Economic Development, and maintenance of Subzones 3B and 3C as well as on- and off-San Francisco International Airport, common-user, Fuel Storage and Delivery Systems and Facilities. (Resolution No. 09-56)

12. NEW BUSINESS / AGENDA SETTING

- New Business
- Agenda Setting (Targeted Commission meeting, subject to change)
  - Informational presentation of an outline for a possible Waterfront Arts Program, located at several sites along the entire length of the waterfront (October 13, 2009)
  - Informational report on San Francisco Stormwater Design Guidelines and Proposed Stormwater Ordinance (October 13, 2009)
  - Request authorization to award the Marine Structural and Civil Engineering Services Contract for the Pier 43 Bay Trail Link Project (October 13, 2009)
  - Request approval of the Port Commission of the City and County of San Francisco Revenue Bond Issuance, Series 2009 (the "2009 Bonds") (October 13, 2009)
  - Informational Presentation regarding SWL 351 and Northeast Embarcadero Study (October 27, 2009)
  - Request approval of award of contract to a Cruise Terminal Design Consultant for Architectural and Engineering Services for the Pier 27 Cruise Ship Terminal (October 27, 2009)
  - Informational presentation regarding proposed water taxi service at the Port of San Francisco (November 10, 2009)
  - Request authorization to award Contract No. 2735, Security Lighting Project at Pier 80 (November 10, 2009)
  - Request authorization to enter into an Exclusive Negotiation Agreement with Seawall Lot 337 Associates, LLC to explore a mixed-use development project at SWL 337 and Pier 48 (Date to be Determined)
  - Request approval of the Port's Interim Leasing Policy for Historic Structures (Date to be determined)
  - Request authorization to award Pier 45 drainage improvements project (Date to be determined)
  - Informational presentation on development opportunities for Seawall Lot 330 (located on The Embarcadero at Beale and Brannan Streets) (Date to be determined)
  - Request authorization to enter into a Memorandum of Understanding with the San Francisco Municipal Transportation Agency for the Port of San Francisco to relinquish its rights to cargo freight rail service north of Cesar Chavez along Illinois Street (Date to be determined)

13. PUBLIC COMMENT

Public comment is permitted on any matter within Port jurisdiction and is not limited to agenda items. Public comment on non-agenda items may be raised during New Business/Public Comment. A member of the public has up to three minutes to make pertinent public comments before action is taken on any agenda item and during the new business/public comment period. It is strongly recommended that public comments be submitted in writing so they can be distributed to the Commissioners for their review. Please fill out a speaker card and hand it to the Commission Secretary. If you have any question regarding the agenda, please contact the Commission Secretary at 274-0406.

14. COMMUNICATIONS

Communications to the Port Commission from September 4-17, 2009:

- From Mayor Gavin Newsom, letter in support of the Exploratorium Project at Piers 15-17
- From Port staff, copy of a letter to Governor Schwarzenegger regarding AB1176

15. ADJOURNMENT

OCTOBER/NOVEMBER 2009
CALENDAR OF UPCOMING PORT MEETINGS – OPEN TO THE PUBLIC

DATE	TIME	GROUP	LOCATION
Oct. 13	2:00 p.m.	Closed Session/Port Commission	Port Commission Room
	3:15 p.m.	Open Session	@ Ferry Building
Oct. 27	2:00 p.m.	Closed Session/Port Commission	Port Commission Room
	3:15 p.m.	Open Session	@ Ferry Building
Nov. 10	2:00 p.m.	Closed Session/Port Commission	Port Commission Room
	3:15 p.m.	Open Session	@ Ferry Building

NOTES:

The San Francisco Port Commission meets regularly on the second and fourth Tuesday of the month at 3:15 p.m., unless otherwise noticed. The Commission Agenda and staff reports are posted on the Port's Website @ www.sfport.com. Contact Amy Quesada at 274-0406.

The Fisherman's Wharf Waterfront Advisory Group (FWWAG) meets regularly on a bi-monthly basis, on the third Tuesday of the month. The regular meeting time and place is 9:00 a.m. at Scoma's Restaurant, Pier 47 at Fisherman's Wharf. Contact Michael Nerney @ 274-0416 or michael.nerney@sfport.com

The Maritime Commerce Advisory Committee (MCAC) meets on a quarterly basis, on the third Thursday of the month, from 11:30 a.m. to 1:00 p.m. @ Pier 1. Contact Jim Maloney @ 274-0519 or jim.maloney@sfport.com

The Mission Bay Citizens Advisory Committee meets regularly on the second Thursday of the month, from 5:30 to 7:30 p.m. at the Mission Bay Visitor Center (255 Channel Street). Contact Catherine Reilly, Assistant Project Manager, Redevelopment Agency, @ 749-2516 or Catherine Reilly/REDEV/SFGOV@SFGOV

The Northeast Waterfront Advisory Group (NEWAG) meets regularly on a bi-monthly basis on the first Wednesday of the month from 5:00 p.m. to 7:00 p.m. in the Bayside Conference Room @ Pier 1. Contact Jonathan Stern @ 274-0545 or jonathan.stern@sfport.com

The Central Waterfront Advisory Group (CWAG) meets monthly on an as-needed basis, generally on the third Wednesday of the month from 5 to 7 p.m. in the Bayside Conference Room at Pier 1. Contact Mark Paez @ 705-8674 or mark.paez@sfport.com

The Rincon Point South Beach Citizens Advisory Committee meets on a quarterly basis, from 5:00-7:00 p.m. at the South Beach Yacht Club (Pier 40 on The Embarcadero). Contact Catherine Reilly, Assistant Project Manager, Redevelopment Agency, @ 749-2516 or Catherine.Reilly/REDEV/SFGOV@SFGOV

The Southern Waterfront Advisory Committee (SWAC) meets every last Wednesday of the month from 6:15 to 8:15 p.m. Location to be determined. Contact David Beaupre @ 274-0539 or david.beaupre@sfport.com

The Waterfront Design Advisory Committee (WDAC) meets jointly with the Design Review Board of the Bay Conservation and Development Commission on the first Monday of the month at BCDC, 50 California Street, Rm. 2600, at 6:30 p.m. The Committee meets as needed on the fourth Monday of the month at 6:30 p.m. in the Bayside Conf. Rm. @ Pier 1. Contact Dan Hodapp @ 274-0625 or dan.hodapp@sfport.com

A09222009

FERRY BUILDING:

The Port Commission Hearing Room is located on the second floor of the Ferry Building. The main public entrance is from the west (Embarcadero) side and is served by a bank of elevators adjacent to the historic staircase. Accessible public restrooms are on the first floor at the northeast end of the building as well as on the second floor across the lobby from the Port Commission Hearing Room. The main path of travel to the Port Commission Hearing Room is equipped with remote infrared signage (Talking Signs). The Port Commission Hearing Room is wheelchair accessible. Accessible seating for persons with disabilities (including those using wheelchairs) is available. The closest accessible BART and MUNI Metro station is Embarcadero located at Market & Spear Streets. Accessible MUNI lines serving the Ferry Building area are the F-Line, 9, 31, 32 and 71. For more information about MUNI accessible services, call (415) 923-6142. The nearest accessible parking is provided in the following off-street pay lots:

A) 3 spaces in the surface lot on the west side of the Embarcadero at Washington St.
B) Hourly and valet parking in the Pier 3 lot. This lot is accessed through the Pier 3 bulkhead building entrance on the east side of the Embarcadero. This lot is located on the pier deck; adjacent to the ferry boat Santa Rosa.

Additional covered accessible off-street pay parking is available in the Golden Gateway Garage, which is bounded by Washington, Clay, Drumm and Battery Streets. Entrance is on Clay St. between Battery and Front Streets. There is no high-top van parking. Metered street parking is available on the Embarcadero, Washington, Folsom & Drumm Streets.

PIER 1:

The Port's fully accessible offices are in the west end of Pier 1. There are two public entrances; the main entrance on the west (Embarcadero), and the Port History walk entrance on the south apron. Each of these entrances is provided with an automatically operated door. Both entrances lead to the Bayside conference rooms. Accessible public restrooms, drinking fountains, payphone and TTY are on the first floor near the main entrance. The public spaces of the Port's offices are equipped with remote infrared signage (Talking Signs) identifying all primary entrances, paths of travel, meeting rooms and amenities. Accessible seating areas and assistive listening devices will be available in the Bayside Conference rooms.

Accessible meeting information policy:

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals.

A sign language interpreter and alternative format copies of meeting agendas and other materials can be provided upon request made at least 72 hours in advance of any scheduled meeting. Contact Wendy Proctor, Port's ADA Coordinator, at 274-0592, the Port's TTY number is (415) 274-0587.

Know Your Rights Under the Sunshine Ordinance:

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact Frank Darby by mail: Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at (415) 554-7724; by fax at (415) 554-7854 or by email at sotf@sfgov.org. Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, at http://www.sfgov.org/sunshine.

NOTICES

Prohibition of Ringing of Sound Producing Devices:

The ringing of and use of cell phones, pagers, and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic device.

Lobbyist Registration and Reporting Requirements:

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Government Conduct Code Sections §2.100 – 2.160) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness, Suite 3900, San Francisco, CA 94102, phone (415) 581-2300 or fax (415) 581-2317; web site: www.sfgov.org/ethics.

PORT OF SAN FRANCISCO

MEMORANDUM

September 16, 2009

TO: MEMBERS, PORT COMMISSION
Hon. Rodney Fong, President
Hon. Stephanie Shakofsky, Vice President
Hon. Michael Hardeman
Hon. Ann Lazarus

FROM: Monique Moyer
Executive Director

SUBJECT: Request approval of Amendment to the Fisherman's Wharf Street Performer Program to allow a three-month trial period for three exclusive use designated performance locations (Locations 5, 7, and 12) for spray paint artist's performances.

DIRECTOR'S RECOMMENDATION: Approve Attached Resolution

BACKGROUND:

On March 11, 2008 Port Staff presented the Fisherman's Wharf Street Performer Program and the Guidelines and Rules ("Program") which was adopted by the Port Commission effective April 1, 2008.

The Program currently has 24 licensed performers representing approximately 30 performers. These licensees include six spray paint artists who perform for the visitors at Fisherman's Wharf. They operate under conditional permits which require that they use a ventilation booth designed to capture the overspray created by their use of aerosol spray cans as their primary art material. The ventilation booths are certified by an independent licensed industrial hygienist as safe for the public. Spray paint artists ("SPA's") have been participating in the Street Performer Program on this conditional basis for over a year.

The spray paint artists' success and popularity have created scheduling and space challenges within the program. The monthly scheduling meeting is now taking six hours to complete which is exhausting for the group. On Tuesday, September 22, 2009, the licensed performers will meet for their monthly scheduling meeting. At this meeting the group will vote to agree to allow the SPA's exclusive scheduling use of three designated

This Print Covers Calendar Item No. 8A

performance locations, identified as locations 5, 7, and 12 (see attached map) for a three month trial period. Upon a majority vote, Port staff will seek an amendment to the Street Performer Program at the Port Commission hearing also scheduled for September 22, 2009.

By permitting this exclusive scheduling, the SPA's agree that they will not schedule in any of the other locations, nor will they use the other locations within the First Come First Served sign-up system. The SPA's will schedule their three locations at a separate meeting and submit the schedule for review and approval by Port Staff.

RECOMMENDATION:

Port staff recommends that the Port Commission adopt the amendment to allow, on a three month trial basis, spray paint artists to separately schedule their performances. The spray paint artists would exclusively use locations 5, 7, and 12.

Prepared by:	Katharine Arrow, Senior Property Manager
For:	Susan Reynolds, Deputy Director, Real Estate

PORT COMMISSION
CITY & COUNTY OF SAN FRANCISCO
RESOLUTION NO. 09-51

WHEREAS, Section 3.581 of the Charter of the City and County of San Francisco empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control Port areas of the City and County of San Francisco; and

WHEREAS, the Port Code sets legal standards for conduct on Port Parks; and

WHEREAS, activities by spray paint artists' scheduling and space needs impact the other street performers by restricting available performance space and extending the scheduling meeting additional hours; and

WHEREAS, Port staff, street performers, and spray paint artists desire to modify the Program to allow three exclusive use designated performance locations (Locations 5, 7, and 12) for the spray paint artist's performances; and

WHEREAS, to achieve these goals, the Port wishes to amend the Fisherman's Wharf Street Performer Program for a three month trial basis starting October 1, 2009 and ending on December 31, 2009; and

RESOLVED, that the Port Commission hereby adopts the amendment pursuant to Section 2.1 of the Port Code as reasonable time, place, and manner rules for street performers in Port Parks; and be it further

RESOLVED, that the Port Commission authorizes the Executive Director to remove, relocate (within forty (40) feet), or add designated spray paint artist Locations after posting the intended relocation, removal, or addition for not less than five (5) days; and be it further

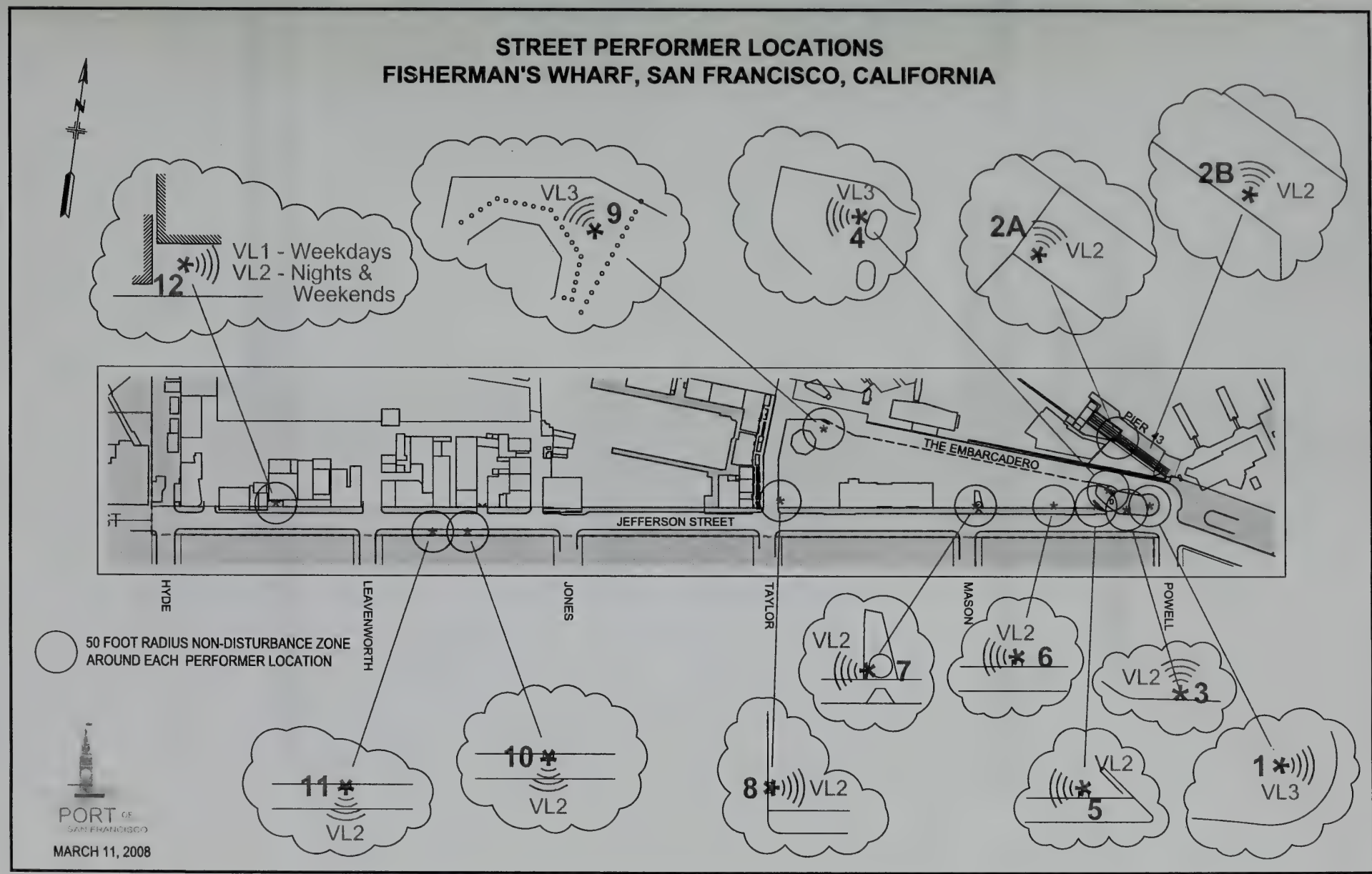
RESOLVED, that the Port Commission hereby authorizes the Executive Director to amend the Street Performer Program to allow exclusive use of three locations (Locations 5, 7, and 12) for spray paint artists under the condition that the spray paint artists will not use the other locations including First Come First Served Locations, and be it further

RESOLVED, that the Port Commission hereby ratifies and approves all actions taken so far by the Port to establish and implement guidelines and rules for the Street Performer Program pursuant to the program implemented on April 1, 2008.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of September 22, 2009.

_____
Secretary

STREET PERFORMER LOCATIONS
FISHERMAN'S WHARF, SAN FRANCISCO, CALIFORNIA



PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 09-52

RESOLVED, that the Port Commission hereby rescinds Resolution No. 09-48 adopted September 8, 2009.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of September 22, 2009.

_____
Secretary

PORT OF SAN FRANCISCO

MEMORANDUM

September 15, 2009

TO: MEMBERS, PORT COMMISSION
Hon. Rodney Fong, President
Hon. Stephanie Shakofsky, Vice President
Hon. Michael Hardeman
Hon. Ann Lazarus

FROM: Monique Moyer
Executive Director

SUBJECT: Request authorization to award, subject to the Board of Supervisors approval, two (2) three-year leases for surface parking between the Port of San Francisco and Tower Valet Parking, Inc. Lease No. L-14750 for Bid Opportunity A: Seawall Lot 301 commonly known as the Triangle Parking Lot, and SWL 314; and Priority Parking-CA, LLC Lease No. L-14747 for Bid Opportunity B: Seawall Lots 322-I, SWL 323, SWL 321, and SWL 324 all located in the Northern Waterfront.

DIRECTOR'S RECOMMENDATION: Approve Attached Resolutions

BACKGROUND

On March 5, 2009 the Port Commission approved Resolution No. 09-13, authorizing Port staff to offer through competitive bid two (2) three-year leases for surface parking: Opportunity A: Seawall Lot ("SWL") 301, commonly known as the Triangle Parking Lot, bounded by Taylor Street, Jefferson Street, and Powell Street, and SWL 314, bounded by the Embarcadero, Bay Street, and Kearny Street; and Opportunity B: SWLs 322-I, bounded by Front Street and Broadway, SWL 323, bounded by Davis Street and the Embarcadero, SWL 321, bounded by Front Street, Green Street and The Embarcadero and SWL 324, bounded by Davis Street, Front Street and The Embarcadero. All of these Seawall lots are located in the Northern Waterfront, see attached maps.

The process was to culminate in the award of a lease or leases with a term of three (3) years. The successful bidder or bidders would be selected based on proposing the highest minimum monthly rent for the opportunity and meeting the minimum qualifications for experience and financial standing.

THIS PRINT COVERS CALENDAR ITEM NO. 8C

The submittal date for the bids was May 27, 2009, at which time the bids were publicly opened and ranked in order of highest bid. The Port received requests for twenty-eight (28) bid packages. Eventually the Port received five (5) qualified bids for Opportunity A, and seven (7) qualified bids for Opportunity B. The bids were ranked accordingly:

Bid Ranking Opportunity A

1. ABC Parking	$158,065.00
2. Tower Valet Parking, Inc.	$138,888.88
3. Imperial Parking (U.S.), Inc.	$130,000.88
4. TKC Parking, Inc.	$121,500.13
5. Pacific Park Management	$116,667.00
6. Central Parking	$115,968.00

Bid Ranking Opportunity B

1. ABC Parking	$210,635.00
2. Priority Parking-CA, LLC	$178,244.00
3. PHBS Joint Venture, LLC	$177,777.00
4. Pacific Parking	$171,667.00
5. Central Parking Systems	$153,485.00
6. Parking Concepts, Inc.	$152,249.00
7. Imperial Parking (U.S.), Inc.	$145,740.75
8. Tower Valet Parking, Inc.	$145,555.55

Subsequent to the May 27, 2009 opening, ABC Parking withdrew its bid. Port Staff recommends that the Port Commission award, subject to Board of Supervisors' approval, the two (2) three-year leases to the qualified highest bidders, Tower Valet Parking, and Priority Parking-CA, LLC. Port staff further requests that the Port Commission authorize the Executive Director to forward these leases to the Board of Supervisors for approval.

Analysis

There are currently three parking lot operators in the Northern Waterfront. In order to gain economies of scale that would result in better economic returns, Port staff reconfigured the parking lots in the bid opportunities. Staff also sought to provide various parking alternatives to the Port's parking customer base, such as hourly, daily, valet parking, and where permitted, monthly parking. To achieve these goals, the lots were combined as bid Opportunity A consisting of SWL 301 and SWL 314, and bid Opportunity B consisting of SWL 322-I, SWL 324, SWL 323, and SWL 321.

Analysis of bid Opportunity A: Currently, the Fisherman's Wharf Triangle Parking Lot at SWL 301 operates through a direct month-to-month operating agreement between the tenant and the Port of San Francisco. The tenant sublets the lot to a parking operator through a parking lot operating agreement contract.

This existing parking lot arrangement has proven to be an anemic economic relationship for the Port of San Francisco. The current lease returns approximately $30,000 per month ($0.42 per square foot per month) to the Port after the deduction of operating expenses by the tenant and includes free validated parking for some Port restaurant tenants. The lease does not contain a percentage rent provision. Therefore, the Port has not participated in any revenue overages derived from the lot.

Under the proposed new lease with Tower Valet Parking, the Port is guaranteed the greater amount of either $97,301.20 per month ($1.36 per square foot) or 66% of all

gross receipts net of the City Parking Tax. This represents an approximate 220% incremental increase in revenue to the Port over the existing lease. The lot will continue to provide for a high level of customer service to Fisherman's Wharf visitors with specific hours of free-validated parking to a greater number of the Port's Fisherman's Wharf retail tenants.

The current lease at SWL 314 provides monthly rent equal to the greater amount of $26,758.04 ($0.86 per square foot). Under the new lease with Tower Valet Parking, the new monthly rent is the greater amount of $42,315.04 ($1.36 per square foot) or 66% of gross receipts net of City Parking tax. This represents an incremental increase of 56% over the existing lease.

Analysis of bid Opportunity B: The current operator at SWL 322-I pays rent to the Port equal to the greater amount of $44,993.90 ($1.19 per square foot). The new operator, Priority Parking-CA, will pay rent equal to the greater amount of $45,750.10 per month ($1.21 per square foot per month) or 66% of gross receipts net of City Parking Tax. This represents an incremental increase of 2%.

The existing lease at SWLs 321, 323, and 324 does not contain a percentage rent provision. The Port receives only a monthly base rent. The current monthly rent is $95,791.35 ($0.87 per square foot). The new operator, Priority Parking-CA, will pay rent equal to the greater of $133,227.05 ($1.21 per square foot per month) or 66% of gross receipts net of parking tax. This represents an incremental increase of approximately 40%.

In summary, under the new proposed parking lot leases, the Port will realize incremental revenue increases for base rent of approximately $1.6 million annually or $5.2 million for the three-year terms. This represents a 68% increase over the existing leases. Port staff anticipates a corresponding increase in the percentage rent paid to the Port that may increase the net return over the three-year term of the leases to $7 million.

Both proposed new leases contain parking Expansion Sites, at Port's option, subject to all lease terms and with rent to the Port of San Francisco in the amount of 66% of gross receipts net of City Parking Tax, see attached map.

LEASE TERMS

Tenant:	Tower Valet Parking, Inc.	Priority Parking-CA, LLC
Lease No.	L-14750	L-14747
Premise	SWLs 301 and 314	SWLs 322-I, 321, 323, and 324
Lease Commencement	Following Board of Supervisors approval anticipated to be November 1, 2009.	Following Board of Supervisors approval anticipated to be November 1, 2009.

Lease Expiration Date	36 months following the commencement date	36 months following the commencement date
Monthly Base Rent ("Minimum Rent")	$138,888.88	$178,244.00
Security Deposit	Stand By Letter of Credit or Certificate of Deposit acceptable in lieu of cash at Port's sole discretion	Stand By Letter of Credit or Certificate of Deposit acceptable in lieu of cash with Port's sole discretion
Rent Adjustment	Annual 3.5%	Annual 3.5%
Percentage Rent	The greater amount of the base rent or 66% of gross receipts net of City Parking Tax.	The greater amount of the base rent or 66% of Gross Receipts net of City Parking Tax.
Use	Operation of surface parking Lot	Operation of surface parking Lot
Right of Recapture	Port may recapture all or portion of premises with notice	Port may recapture all or portion of premises with notice
Operation Plan	Tenant is required to submit and comply with Port approved Operational and Customer Service Plan.	Tenant is required to submit and comply with Port approved Operational and Customer Service Plan.
Expansion Sites	Pier 45, Shed A and C	North of the Ferry Building except Pier 45, Shed A and C
Expansion Sites Rent	66% of Gross Sales after the deduction of Parking Tax	66% of Gross Sales after the deduction of Parking Tax
Special restrictions	a. SWL 301 monthly parking prohibited; b. Must provide free validated parking to Port Fisherman's Wharf retail tenants for specified duration during specific hours; c. Tenant shall make some or all of SWL 314 available for parking and staging to support cruise ships with notice from Port at market rates; d. Tenant shall make a minimum of 20% of stalls at SWL 314 available on an hourly basis to support local merchants.	a. Must provide 40 free parking stalls to Port employees at SWL 323; b. Tenant must make SWL 321 available to support the Exploratorium Project at Piers 15/17 at the then market rates.

RECOMMENDATIONS

Port staff recommends that the Port Commission approve the two (2) three-year leases for surface parking in the Northern Waterfront between the Port of San Francisco and Tower Valet Parking, Inc., Lease No. L-14750, for SWLs 301 and 314; and Priority Parking-CA, LLC, Lease No. L-14747, for SWLs 322-I, 323, 321 and 324 and authorize the Executive Director to forward said Leases to the Board of Supervisors for award and approval pursuant to Board's authorization under Charter Section 9.118, and upon the effectiveness of such approval, execute said leases.

Prepared by: Jeffrey A. Bauer, Senior Commercial Leasing Manager

For: Susan Reynolds, Deputy Director of Real Estate

G:\AGENDA\Jeff Bauer-Agenda 2009\September 22, 2009 Agenda Parking Lots.doc\jb

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO
RESOLUTION NO. 09-53

WHEREAS, Charter Section 4.114 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control Port area of the City and County of San Francisco; and

WHEREAS, surface parking generates a significant revenue stream to the Port, and the Port desires to operate its parking lots in an efficient manner while maximizing revenues; and

WHEREAS, the Port requires continued operation of SWLs 301 and 314, located in the Northern Waterfront, for parking by both Port tenants and the public; and

WHEREAS, On March 5, 2009, pursuant to Resolution 09-13, the Port Commission authorized staff to competitively bid one (1) three-year lease for surface parking lots operated in the Northern Waterfront: Bid Opportunity A: SWLs 301 and 314, all located in the Northern Waterfront; and

WHEREAS On May 27, 2009 bids were publicly opened and ranked in order of highest bid, the results are enumerated in the staff report; now, therefore, be it

RESOLVED, That the Port Commission awards, subject to Board of Supervisors' approval, the Leases on the terms described in the attached staff report and authorizes and directs the Executive Director or her designee to forward the Lease to the Board of Supervisors (the "Board") for approval, pursuant to the Board's authority under Charter Section 9.118, and upon the effectiveness of such approval, to execute the Lease; and, be it further

RESOLVED, That the Port Commission authorizes the Executive Director to enter into any additions, amendments, or other modifications to the Lease that the Executive Director, in consultation with the City Attorney, determines are in the best interest of the Port, do not materially increase the obligation or liabilities of the City or Port, and are necessary or advisable to complete the transactions which the Lease contemplate and effectuate the purpose and intent of this Resolution, such determination to be conclusively evidenced by the execution and delivery by the Executive Director of the Lease, and any such amendments hereto.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of September 22, 2009.

_____
Secretary

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO
RESOLUTION NO. 09-54

WHEREAS, Charter Section 4.114 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control Port area of the City and County of San Francisco; and

WHEREAS, surface parking generates a significant revenue stream to the Port, and the Port desires to operate its parking lots in an efficient manner while maximizing revenues; and

WHEREAS, the Port requires continued operation of SWLs 321, 322-I, 323, and 324, all located in the Northern Waterfront, for parking by both Port tenants and the public; and

WHEREAS, On March 5, 2009, pursuant to Resolution 09-13, the Port Commission authorized staff to competitively bid one (1) three-year lease for surface parking lots operated in the Northern Waterfront: Bid Opportunity B: SWLs 321, 322-I, 323 and 324, all located in the Northern Waterfront; and

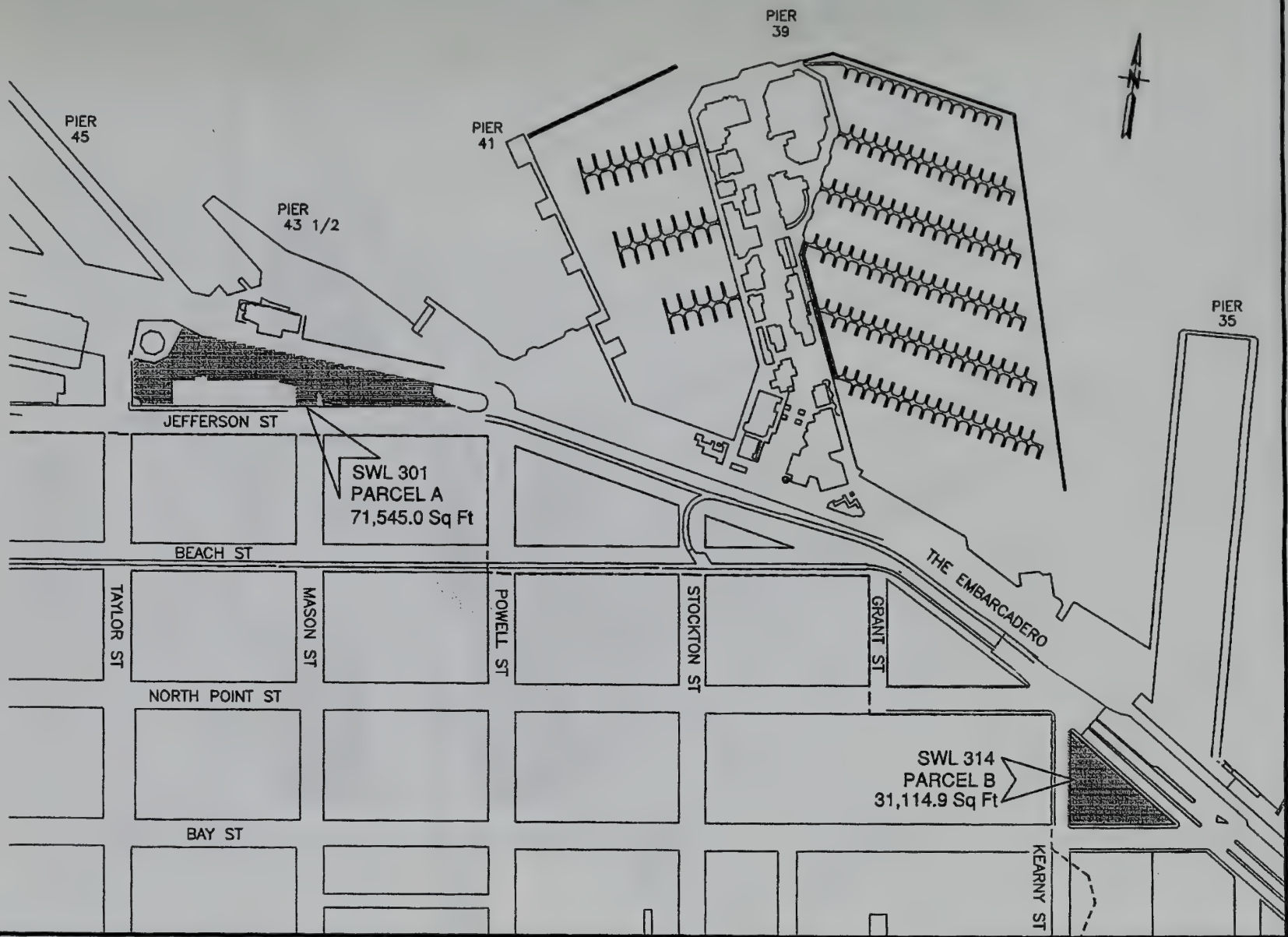
WHEREAS On May 27, 2009 bids were publicly opened and ranked in order of highest bid, the results are enumerated in the staff report; now, therefore, be it

RESOLVED, That the Port Commission awards, subject to Board of Supervisors' approval, the Lease on the terms described in the attached staff report and authorizes and directs the Executive Director or her designee to forward the Lease to the Board of Supervisors (the "Board") for approval, pursuant to the Board's authority under Charter Section 9.118, and upon the effectiveness of such approval, to execute the Leases; and, be it further

RESOLVED, That the Port Commission authorizes the Executive Director to enter into any additions, amendments, or other modifications to the Lease that the Executive Director, in consultation with the City Attorney, determines are in the best interest of the Port, do not materially increase the obligation or liabilities of the City or Port, and are necessary or advisable to complete the transactions which the Lease contemplate and effectuate the purpose and intent of this Resolution, such determination to be conclusively evidenced by the execution and delivery by the Executive Director of the Lease, and any such amendments hereto.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of September 22, 2009.

_____
Secretary



SAN FRANCISCO PORT COMMISSION
PORT OF SAN FRANCISCO
DEPARTMENT OF ENGINEERING

DRAWN BY: ECC	DATE: AUG 3, 2009
CHECKED BY: J. BAUER	SCALE: NONE
PLACE CODE NO. 3140-00	SHEET NO. OF SHEETS

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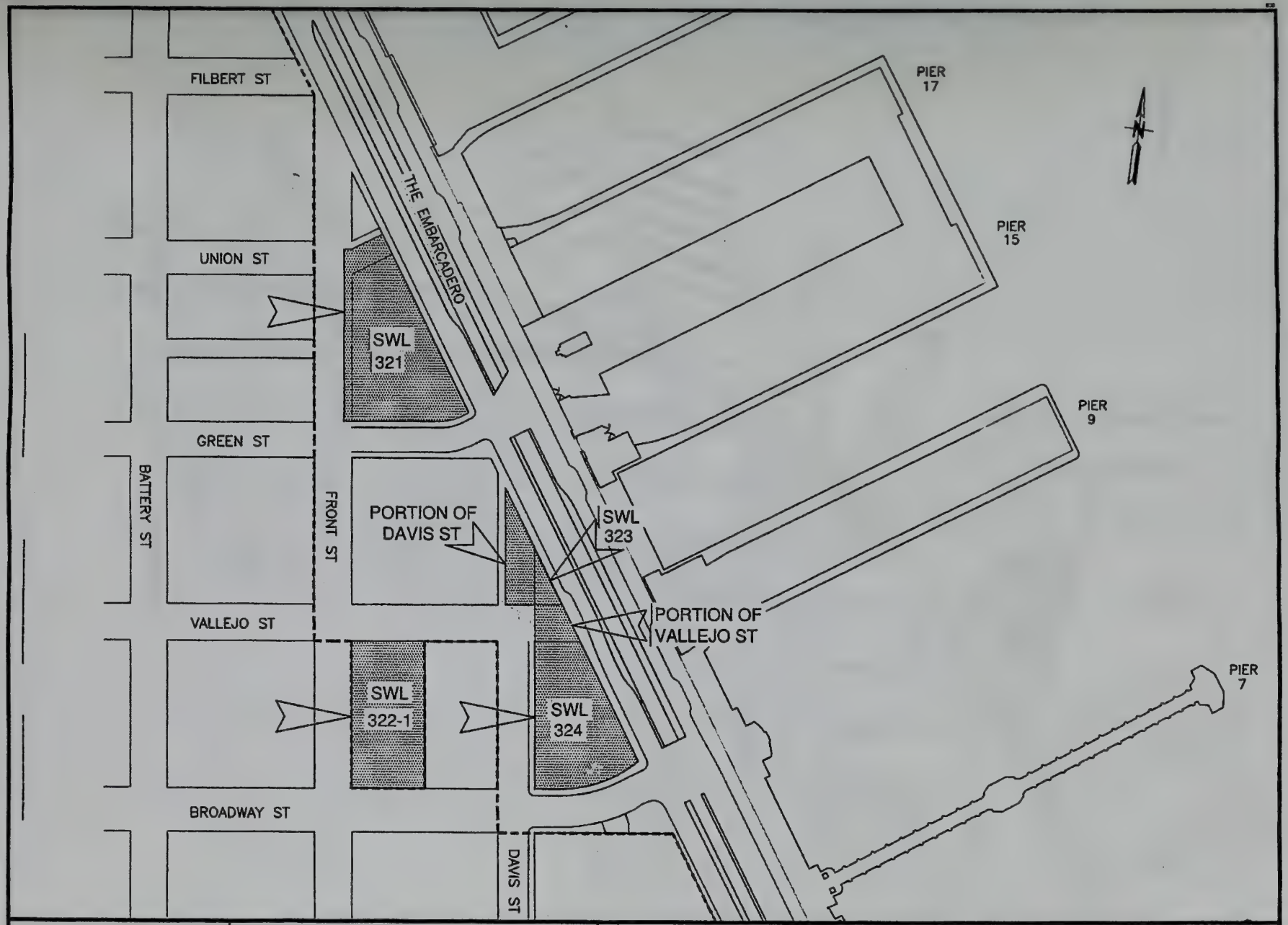

SAN FRANCISCO PORT COMMISSION
PORT OF SAN FRANCISCO
DEPARTMENT OF ENGINEERING

DRAWN BY: ECC	DATE: JUL 16, 2009
CHECKED BY: J. BAUER	SCALE: NONE
PLACE CODE NO. 3140-00	SHEET NO. OF SHEETS

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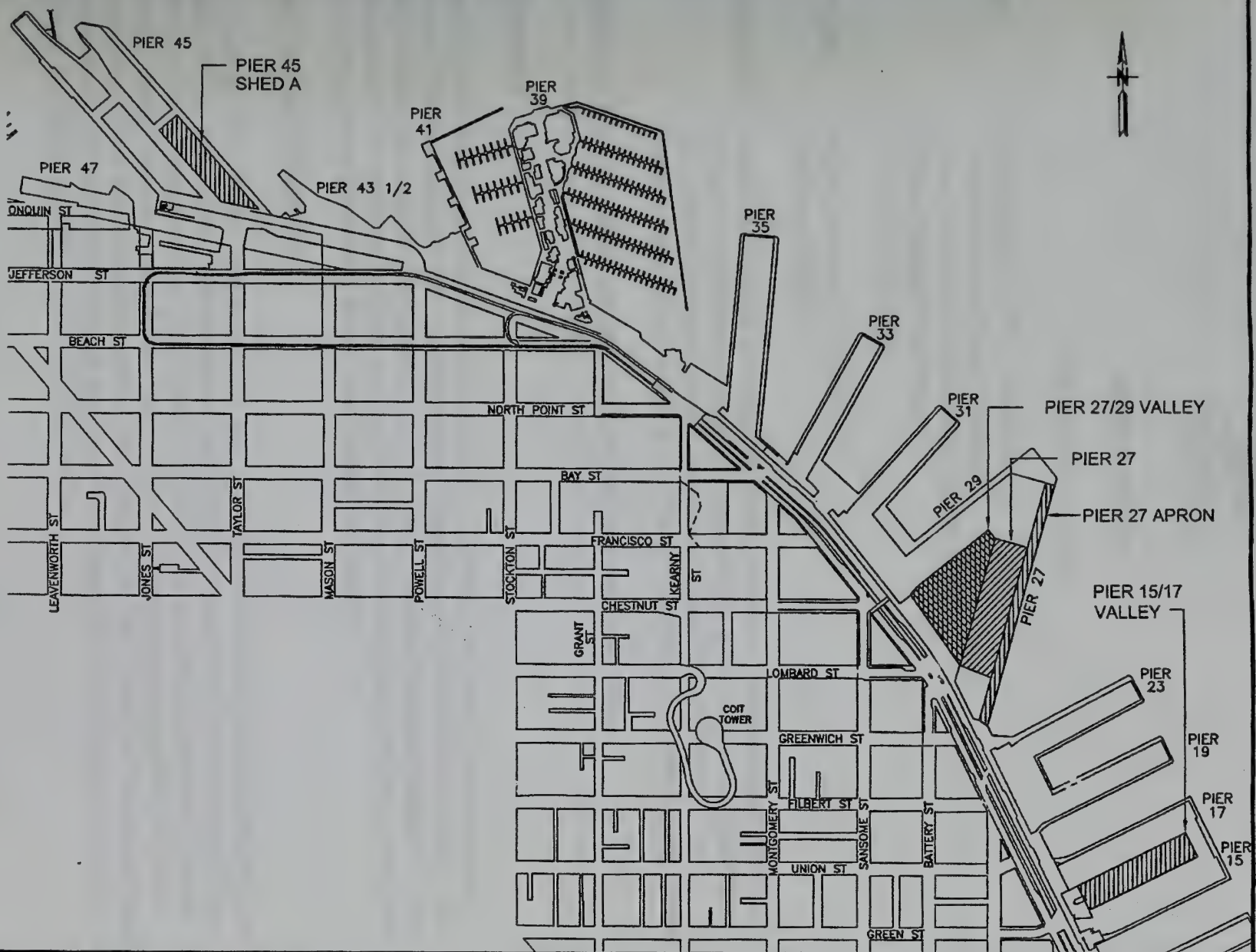

SAN FRANCISCO PORT COMMISSION
PORT OF SAN FRANCISCO
DEPARTMENT OF ENGINEERING

TENANT

EXPANSION PARKING LOT SITES

DRAWN BY:- ECC	DATE: MAR 2, 2009
CHECKED BY: J. BAUER	SCALE: NONE
PLACE CODE NO.	SHEET NO.
	OF SHEETS

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PORT OF SAN FRANCISCO

MEMORANDUM

September 14, 2009

TO: MEMBERS, PORT COMMISSION
Hon. Rodney Fong, President
Hon. Stephanie Shakofsky, Vice President
Hon. Michael Hardeman
Hon. Ann Lazarus

FROM: Monique Moyer
Executive Director

SUBJECT: Request approval to enter into a license without fee agreement with the United Humanitarian Mission organization to allow permanent installation of a commemorative plaque permanently installed adjacent to The Embarcadero Promenade at the Pier 7 wharf area, near Broadway Street

DIRECTOR'S RECOMMENDATION: Approve Attached Resolution

SUMMARY

The United Humanitarian Mission organization is proposing to install a bronze plaque honoring Russian seamen who helped fight the Great San Francisco Fire of 1863. The plaque would be installed permanently on an existing concrete pedestal adjacent to the Embarcadero Promenade and the outdoor dining area of the Waterfront restaurant near the intersection of Broadway Street (see Exhibit for location).

HISTORICAL CONTEXT

In October, 1863, at the invitation of the U.S. Federal Government, the Russian Imperial Pacific Fleet was invited to winter their ships in San Francisco Bay. Within days of the fleet's arrival, a fire broke out on October 23, 1863 in the area that is now the Financial District. Many Russian ships arrived with sailors and fire fighting equipment to play a substantial role in extinguishing the fire. On October 25, 1863, the San Francisco Board of Supervisors officially acknowledged the unselfish support given by Russian Admiral A. A. Popov, and Russian sailors while fighting the fire.

This Print Covers Calendar Item No. 9A

PROPOSAL DETAILS

The United Humanitarian Mission (UHM), established in 1998, is a San Francisco based non-profit 501(c)(3), non-partisan, non-religious organization that maintains the goal of improving society's moral health by combating the loss of universal human values (see attached UHM profile).

The bronze plaque would be about 30-inch square and Port crews would install it to the top of an existing 5-foot by 5-foot by 24-inch height concrete pedestal at the Pier 7 wharf area. The pedestal is located just west of the Waterfront Restaurant's outdoor dining structure, and would be oriented for viewing from The Embarcadero Promenade. The UHM would enter into a license without fee with the Port to allow installation of the plaque. The UHM would be required to indemnify the Port and be responsible for any liability associated with the plaque. The license would allow the Port to relocate the plaque or have it removed for any reason.

STAFF RECOMMENDATION

Port staff recommends adoption of the attached resolution.

Prepared By: Dan Hodapp
Senior Waterfront Planner

Att. Site Map
United Humanitarian Mission profile
Letter from Vladimir Vinokurov, Russian General Consul
Letter from Joanne Hayes-White, Chief, San Francisco Fire Department

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 09-55

WHEREAS, the United Humanitarian Mission organization is proposing to permanently install a bronze plaque honoring Russian seamen who helped fight the Great San Francisco Fire of 1863 adjacent to the Embarcadero Promenade near the intersection of Broadway Street as per Exhibit 1; and

WHEREAS, the United Humanitarian Mission (UHM), established in 1998, is a San Francisco based non-profit 501(c)(3), non-partisan, non-religious organization that maintains the goal of improving society's moral health by combating the loss of universal human values; and

WHEREAS, the UHM proposal is supported by the San Francisco Fire Department and the Russian General Consul, and the efforts of the Russian marines were recognized by the San Francisco Board of Supervisors in 1863; and

WHEREAS, a suitable site with appropriate prominence has been found at The Embarcadero; and

WHEREAS, the Port of San Francisco could enter in to a license agreement to allow placement of a plaque on Port property commemorating the efforts of the Russian marines in fighting The Great San Francisco Fire of 1863; now therefore be it

RESOLVED, that this Commission hereby authorizes the Executive Director of the Port, or his or her designee, to enter into a license without fee agreement with the United Humanitarian Mission organization to allow permanent installation of a bronze plaque honoring Russian marines who helped fight the Great San Francisco Fire of 1863, to be located adjacent to The Promenade in the Pier 7 Wharf area near the intersection of Broadway Street; and be it further

RESOLVED, that the license requires the United Humanitarian Mission to maintain and remove the sculpture upon the Port's request, at no cost to the Port, and also describes other provisions necessary for the public to enjoy this sculpture.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of September 22, 2009.

_____
Secretary

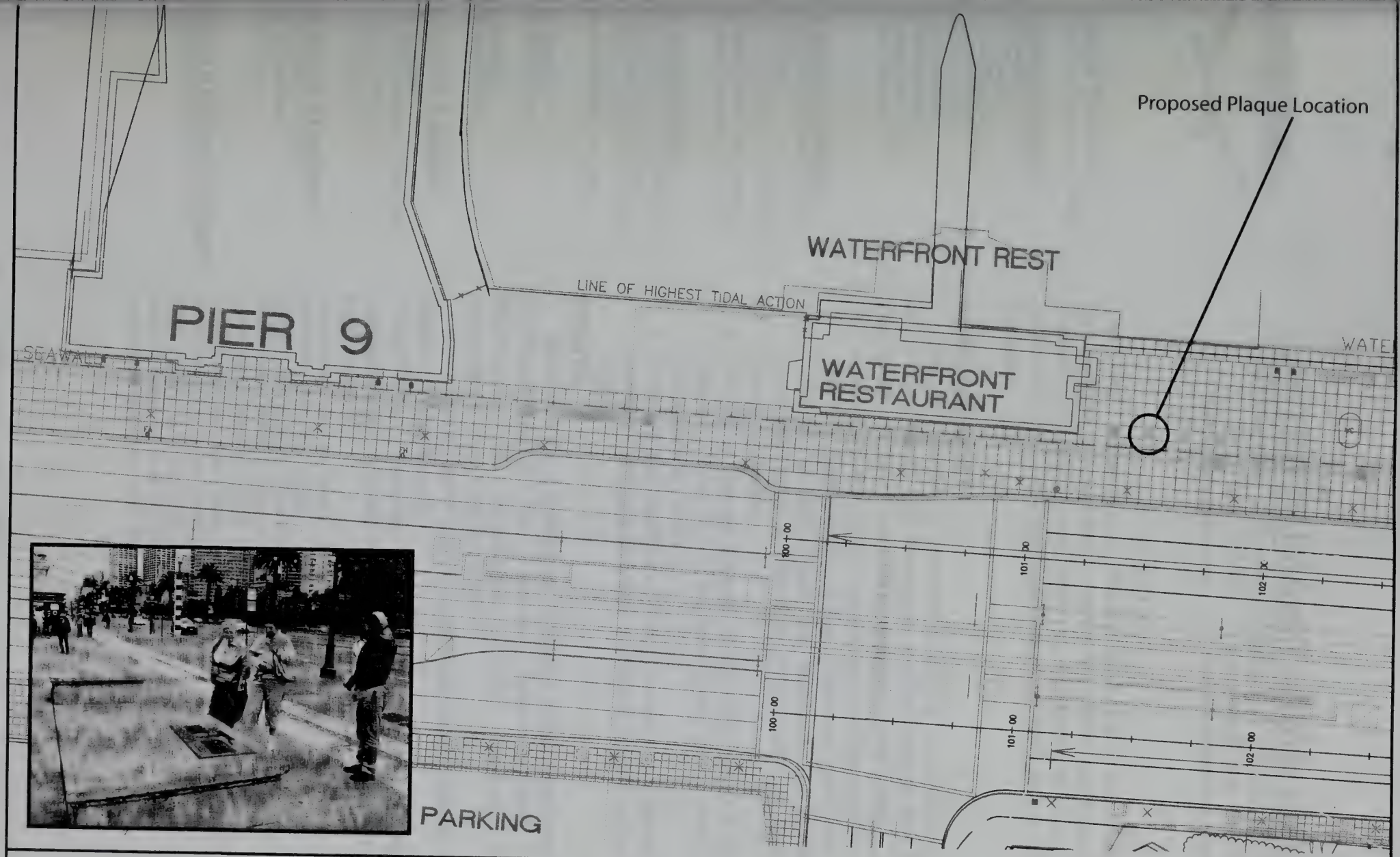

Exhibit 1 - United Humanitarian Mission Plaque

Port of San Francisco

September 11, 2009

PORT OF SAN FRANCISCO

G:\Public Art\Russian UHM\ArtLocations

0 25 50 75 100 Feet

Note - This map is for visual orientation only - Do not scale

UNITED HUMANITARIAN MISSION

2107 Van Ness Avenue Suite 308A, San Francisco, CA 94109
(415) 567 - 5082 Fax: (415) 776 -3619
www.rescuedus.org e-mail: uhmsf @ hotmail.com

Leonid Nakhodkin,
Founder, Chairman and President

Board of Directors
Daniel Usikov, Ph.D.,
Vice President
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Mihail Chemiakin
Oleg Vidov,

Bosnia & Hercegovina Branch
Svetlana Broz, M.D.,Coordinator

PROFILE

The United Humanitarian Mission (UHM) is a non-profit 501(C)(3), non-partisan, non-religious organization that maintains the goal of improving society's moral health by combating the loss of universal human values. UHM was established in 1998 and is based in San Francisco.

ACHIEVEMENTS:

Placed a plaque to commemorate the burial of Russian Sailors on Russian Hill in San Francisco, and to educate the public about the historic origins of this historic neighborhood (June 6, 2005).

- Initiated a resolution passed by the Board of Supervisors of the City and County of San Francisco, that the first day of October of each year be declared the official "Day of Humanitarians" in the City and County of San Francisco (June 14, 2004)
- Placed a bronze plaque at 6th Avenue and JFK Drive in Golden Gate Park to commemorate all humanitarian heroes (February 6, 2003).
- Created the 'Garden of Humanitarians' in Golden Gate Park of San Francisco in honor of Humanitarian heroes (March 1, 2003).

EVENTS:

Arranged Art Exhibitions in Honor of Humanitarian Heroes:
Art People Gallery in San Francisco (October 3, 2003).
Washington DC Residence of the Russian Federation's Ambassador (February 23, 2000).

Arranged Events Commemorating those people who saved Jews in World War II:
Royal Danish Consulate & Consulate General of Sweden in San Francisco (Annual event held on every October 1st since 1997).

Publications:
Jewish News Weekly (May 2, 2008).
SF Weekly (May 22, 2008).
Jewish News Weekly (December 24, 2004).
Jewish News Weekly (October 15, 2004).
Jewish News Weekly (May 9, 2003).
The Independent, San Francisco Newspaper (December 10, 2002)
The Washington Times (February 24, 2000).
Jewish Bulletin (March 24, 2000).
Jewish Bulletin (October 13, 2000).
Jewish Bulletin (August 28, 1998).

RUSSIAN CONSULATE GENERAL

Leonid Nokhodkin

The President of the United Humanitarian Mission

Dear Mr.Nakhodkin

On behalf of the Consulate General of the Russian Federation in San Francisco I would like to express my appreciation to your idea of installing in San Francisco a memorial site in honor of Russian sailors, who died while fighting fire and saving people in San Francisco in October 1863.

The Russian Consulate will support you and your organization in the honorable work of eternalizing the heroic act of Russian sailors during the great fire in San Francisco 1863. This memorial site with an inscription in two languages will be a good sign of Russian-American cooperation in humanitarian sphere and will always remind us of this historical event in the city of San Francisco.

Your project will be a good example of Russian historical heritage in the beautiful State of California.

Sincerely,

Vladimir Vinokurov
Consul General

2790 GREEN STREET, SAN FRANCISCO, CALIFORNIA 94123, USA
PHONE: 415-928-6878, FAX: 415-929-0306, E-MAIL: CONSULSF@IX.NETCOM.COM

JOANNE HAYES-WHITE
CHIEF OF DEPARTMENT

GAVIN NEWSOM
MAYOR

SAN FRANCISCO FIRE DEPARTMENT

CITY AND COUNTY OF SAN FRANCISCO

January 30, 2008

Leoid Nakhodkin
President
United Humanitarian Mission
2107 Van Ness Avenue, Suite 308A
San Francisco, CA 94109

Dear Mr. Nakhodkin,

The San Francisco Fire Department is in receipt of your request to install a memorial garden along the Port of San Francisco.

The San Francisco Fire Department supports the objective of the United Humanitarian Mission to honor those men of the Russian Imperial Pacific Fleet who assisted the City of San Francisco during the October 1863 fire. The efforts of the men of the Russian Fleet who risked their lives for our great City is an important piece of San Francisco's history. The Department supports the United Humanitarian Mission's project for a Waterfront Garden Area Memorial Site provided that it meets the approval of the San Francisco Port.

If I can be of further assistance, please do not hesitate to contact me at 415-558-3401.

Sincerely,

Joanne Hayes-White

Joanne Hayes-White
Chief of Department

PORT OF SAN FRANCISCO

MEMORANDUM

September 15, 2009

TO: MEMBERS, PORT COMMISSION
Hon. Rodney Fong, President
Hon. Stephanie Shakofsky, Vice President
Hon. Michael Hardeman
Hon. Ann Lazarus

FROM: Monique Moyer
Executive Director

SUBJECT: Informational Presentation on the Port's American's with Disabilities Act (ADA) Self-Evaluation and Transition Plan

DIRECTOR'S RECOMMENDATION: Informational Presentation – No Action required

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BACKGROUND

The Port's current ADA Title II Self-Evaluation and Transition Plan ("The Plan") was adopted by the Port Commission through Resolution No. 04-36 on April 27, 2004. The Self-Evaluation and Transition Plan is a document comprised of two parts, Self-Evaluation and Transition. The Self-Evaluation portion of the Plan evaluates programs, services or activities provided by the Port as a public entity. The Transition Plan ("the Transition Plan") portion of the Plan identifies physical barriers, prioritizes barrier removal, and establishes a timeline for completing removal of all of the barriers. The Transition Plan is managed by the Port's ADA Coordinator, Wendy Proctor, in the Engineering Division.

The purpose of this presentation is to provide a five-year update on the Transition Plan activities and accessibility improvements that have been made since the adoption of the Transition Plan in 2004, and the current and future planned accessibility improvements for the Port of San Francisco.

The ADA is a series of federal regulations that provide civil rights protection by prohibiting discrimination against people with disabilities. The Port created and maintains the Transition Plan in response to the federal ADA Title II requirements.

This Print Covers Calendar Item No. 10A

There are 5 Titles of the ADA. The key Titles that apply to the Port are:

Title I – Employment. This Title covers obligations of employers. It became effective July 26, 1992 for employers with 25 or more employees and July 26, 1994 for employers with 15 or more employees, and is enforced by the U.S. Equal Employment Opportunity Commission (EEOC).

Title II (Part A) - State and Local Governments. This Title applies to all state and local governments. It became effective January 26, 1992, and is enforced by the Department of Justice and designated federal agencies.

Title III - Private Entities. This Title covers public accommodations, commercial facilities, private entities that offer examinations or courses related to licensing or certification, and transportation provided to the public by private entities. Title III became generally effective January 26, 1992, and is enforced by the Department of Justice.

ADA TITLE II REQUIREMENTS

The Port of San Francisco is a public Title II entity. As a Title II entity, the Port of San Francisco is required to proactively perform the following activities as they relate to individuals with disabilities:

- Conduct a self-evaluation of the Port facilities, services and programs. This was performed in The Plan.
- Designate a responsible person to manage its ADA compliance program and adopt a grievance procedure. Since 1992, the Port has had different individuals in this role. The Port's current ADA Coordinator is Wendy Proctor who manages the ADA compliance program and public grievances. The Port follows the City and County of San Francisco's grievance procedure.
- Embrace a general prohibition of discrimination. The Port has this policy embedded in its procedures and practices.
- Maintain accessible features in working order. The Port strives to maintain accessible features in good working order.
- Prohibit employment discrimination. The Port's Human Resources Department manages this policy, which is embedded in its procedures and practices.
- Provide program accessibility to services, programs and activities, including removal of architectural or communication barriers. The Port strives to achieve this by making all public communications and public services available to persons with disabilities.
- Ensure that new construction and alterations are accessible. The Port of San Francisco achieves this through Building Permit and Encroachment Permit plan review and inspection.
- Provide communication access. The Port strives to comply with these regulations by providing flexibility in means of communicating by accessible meeting notifications and accessible telephone features.

GOALS AND OBJECTIVES OF THE TRANSITION PLAN

The Transition Plan removes physical barriers and provides accessibility through new construction and alterations. This is a dynamic process that requires yearly assessments of accomplishments and priorities for future projects.

ADA TRANSITION PLAN GOALS:

1. To provide the maximum accessibility to the public and the Port's employees within each building and facility.

2. To conduct yearly reassessments of the priorities for selecting and requesting funding for ADA projects.

3. To coordinate ADA projects with the activities and proposed work of the 10-Year Capital Plan.

4. To leverage ADA features in projects with new construction, additions, and alterations.

5. Relocating public programs to facilities where the level of accessibility is higher than what can be achieved through architectural barrier removal.

6. To extend the focus and application of the accessibility projects to include employee work areas and public areas under employee control wherever feasible.

7. To prioritize physical access solutions that offer services, programs, and activities to individuals with disabilities in the most integrated setting possible.

8. To prioritize physical access solutions, and limit use of a "program access". Program access typically provides accommodations through alternative means rather than full physical accessibility.

ADA TRANSITION PLAN OBJECTIVES:

1. To complete construction funding of the remaining Transition Plan accessibility projects in public areas and facilities for Port of San Francisco by FY 2014-15.

ADA TRANSITION PLAN PRIORITIES:

Overall, the priorities for ADA Transition Plan are public services and recreational areas available at the Port, places of public assembly or gathering, and Port operated multi-tenant facilities. Within those priorities, funding should be allocated first to public use areas, then to employee controlled public use areas, and then, if feasible and practical, to employee work areas.

There are a number of dynamic factors that affect the planning, design and delivery of projects. The overall project schedule must respond to these issues in order to be timely, effective and realistically achievable.

1. **Leveraging to the Highest Quality of Access**. Wherever possible, the plan seeks to leverage Transition Plan commitments to facility replacement, new facility leases or new construction and alterations. A higher level of accessibility and usability is always achieved in this method if the project is timely.

2. **Priorities**. Certain facilities may be prioritized over others due to the desires of the community and the nature of the adjacent development occurring in the area.

3. **Balanced Funding**. The ADA's requirements for access are a federal mandate. The Port must balance the quantity of work against its Capital Improvements budgeting. Wherever possible, it is preferred by the Port to leverage a portion or all of an ADA Transition Plan project to bond funding, state or federal grants that can serve as a vehicle for providing accessibility. This has been accomplished through projects such as Pier 52 Boating Facilities and South Beach Harbor Improvements. Improvements continue to be made through General Obligation Park Bond Projects and Revenue Bond Projects located at the Port.

4. **People-Power Resources**. The quantity and scale of work requires a dedicated project team from concept level development through project construction closeout. The majority of ADA Transition Plan work is conducted by the Port of San Francisco staff, Department of Public Works and Bureau of Architecture staff, or outside consultants. The quantity of work requires a balance of staff capability and workload demands from other projects.

CONSTRUCTION PROJECTS

Completed, Current and Planned Projects:

Facility accessibility improvements are made to the Port through new construction, alterations and projects specifically designed for barrier removal. There are three Attachments providing an assembled account of capital improvements that have directly or indirectly benefited the Port's efforts to provide compliance to accessibility to buildings and facilities. The list includes large projects executed under developer agreements to small installations performed by our own Maintenance staff.

Attachment 1: Completed ADA Improvements at the Port of San Francisco, 2004 to 2009.
Attachment 2: Current ADA Improvements at the Port of San Francisco, 2009
Attachment 3: Future Funded ADA Improvements at the Port of San Francisco
Attachment 4: Future Unfunded ADA Improvements at the Port of San Francisco

FUNDING

Port Staff created the Transition Plan Fund in Fiscal Year 1998-99 in capital project fund CPO 680 specifically to fund accessibility upgrades and repairs identified in the Transition Plan. Each fiscal year, through the Capital Budget process, the Transition Plan Fund receives additional partial funding for physical accessibility improvements for projects as recommended by the ADA Coordinator.

SUMMARY

The Port of San Francisco has made significant improvements to accessibility through large and small construction projects. Costs associated with accessibility improvements through construction projects are a combination of a percentage of total project costs, and direct costs for specific accessibility upgrades. Based on this, Port Staff estimate the amount of funds intended for accessibility improvements from projects completed from 2004 to date total approximately $56,304,673. Efforts are continuous to make accessibility improvements to the waterfront and the facilities through current and planned projects. Current funded projects that are in the design development or construction phase have percentage or direct costs for accessibility improvements totaling approximately $11,959,876. There are also projects that are in the planning and development phase that are both funded and unfunded. These planned projects will further benefit accessibility at the Port and will have percentage or direct costs totaling approximately $16,350,266. Detailed information listing the completed, current and future projects are in the Attachments 1 through 4. We are pleased to make this updated information regarding the progress of the Transition Plan available to the Port Commissioners and the public.

Prepared By: Wendy Proctor, Architect and ADA Coordinator

For: Edward Byrne, Chief Harbor Engineer

Attachment 1 of 4

Completed ADA Improvements at the Port of San Francisco, 2004 - 2009

For major new construction projects (including large scale developer rehabilitation of existing buildings such as the Ferry Building and Piers 1½, 3 and 5) where costs for accessibility improvements are not specifically identified, we have chosen to use the following percentages of total costs as an estimate for ADA costs. Theses percentages were provided to us by the Mayor's Office on Disability.

General New Construction	3%
Alteration Construction	25%
Project with ADA Upgrades Specific Construction	100%

New Construction Projects	Overall Cost	ADA Improvements	Completed
Pier 52 Parking Lot	$467,000	$14,010	Feb-04
Downtown Public Pier (Pier 14)	$2,250,000	$67,500	Jun-06
Rincon Park Restaurants	$18,000,000	$540,000	Jul-08
Pier 52 Boat Launch	$2,506,000	$75,180	Jun-08
Illinois Street Bridge	$25,593,909	$767,817	Jul-08
Total New Construction	$48,816,909	$1,464,507	

Alteration Construction Projects	Overall Cost	ADA Improvements	Completed
South Beach Park and Harbor Redevelopment Project - Docks & Gangways	$3,815,000	$953,750	Aug-05
Pier 35 Security Enhancements	$3,443,699	$860,925	May-06
Piers 1 ½, 3 and 5	$54,000,000	$13,500,000	Dec-06
Fisherman's Wharf Chapel Repair	$200,000	$50,000	Aug-06
South Beach Park and Harbor Redevelopment Project - Harbor Master Office	$7,515,000	$1,878,750	Dec-06
MUNI Facility	$140,000,000	$35,000,000	Feb-09
South Beach Park and Harbor Redevelopment Project - Pier 40 Shed & Apron Improvements	$6,150,000	$1,537,500	Jun-09
Total Alteration Construction	$215,123,699	$53,780,925	

Projects with ADA Upgrades	ADA Improvements	Completed
Curb ramps at Terry Francois at China Basin Park	$10,092	Jan-04

As-needed consultant services for Transition Plan and ADA Projects	$10,000	Jun-04
Pier 14 Additional ADA Signage	$11,700	Sep-04
Downtown Ferry Terminal - Ramp Repair Construction	$8,200	Jun-05
Pier 7 Path of Travel Repair	$5,000	Jan-06
Jefferson street sidewalks, curb ramps and store entryways	$240,000	Dec-06
Pier 30-32 Ramp and Railing	$10,000	Dec-06
Pier 35 ADA Toilet Upgrades	$660,042	May-08
Ferry Building Plaza Detectable Warning Tiles	$6,000	Sep-08
Pier 33 Restroom Upgrade	$27,579	Feb-08
501 Cesar Chaves Storefront Door Replacement	$35,000	Jun-05
Jefferson street sidewalks, final store entryway by tenant	$0	May-09
Pier 1 Evacuation Chair - CCSF	$0	Apr-09
Pier 27 Egress Stair & Ramp	$26,053	Apr-09
Egress Stair at Tarantino's	$10,000	Jun-09
Total	$1,059,666	

Other

ADA Curb Ramp Survey	Aug-06
Port of San Francisco Building Code Adoption	Jan-08

Attachment 2 of 4

Current ADA Improvements Projects at the Port of San Francisco, 2009

Active projects currently in the design development or construction phase
TBD - To Be Determined

New Construction Projects	Estimated Cost	ADA Improvements	Estimated Completion
Brannan Street Wharf Project	$20,500,000	$615,000	Jul-12
Pier 43.5 Bay Trail Link Project	$8,000,000	$240,000	Jun-12
Exploratorium	$175,000,000	$5,250,000	May-12
Transbay Cable*		$75,000	Dec-09
Pier 80 Security Fencing (Gates)	$170,000	$5,100	Nov-09
Total New Construction	$203,670,000	$6,185,100	

Alteration Construction Projects	Estimated Cost	ADA Improvements	Estimated Completion
Pier 1/2 North Ferry Plaza Repair	TBD	TBD	May-06
Pier 33 North Bulkhead Improvements	TBD	TBD	
Piers 19 & 23 Improvement Project	$18,000,000	$4,500,000	Dec-11
Pier 35 Fire Alarms (Strobes)	$190,000	$47,500	Sep-09
Taylor Street Improvements Project	$1,313,703	$328,426	May-10
Off Street Parking Improvements from Pier 14 to Pier 5	$5,000	$1,250	Oct-09
Total Alteration Construction	$19,503,703	$4,877,176	

Projects with ADA Upgrades	Estimated Cost	Estimated Completion
401 Terry Francois Blvd ADA Upgrades Project	$297,600	Jan-04
Fisherman's Wharf Accessible walks and ramps - Inner Harbor Walkway Improvements Project	$100,000	May-10
Portwide Curbramp Improvements Project - Phase I	$250,000	Jul-10
Pier 35 - New Public Restrooms	$250,000	Oct-10
Total ADA Upgrades Construction	$897,600	

Other	Estimated Completion
Portwide Exiting Survey - Phase I	Jun-10

*Amount of Accessibility Upgrades is not a percentage, due to the cost and nature of this underground work.

Attachment 3 of 4

Future Funded ADA Improvements at the Port of San Francisco

Active projects currently in the planning and development phase
TBD - To Be Determined

New Construction Projects	Estimated Cost	ADA Improvements	Estimated Completion
Pier 27 Cruise Terminal	$86,000,000	2,580,000	Jan-14

Alteration Construction Projects	Estimated Cost	ADA Improvements	Estimated Completion
Blue-Greenway: Pier 52 - Pier 98	TBD	TBD	May-06
Crane Cove Park	TBD	TBD	TBD
Bayfront Park at Mission Bay	$2,851,063	712,766	Feb-10
Heron's Head Park / Tulare Park	$550,000	137,500	Jun-11
Islais Creek Improvements	TBD	TBD	Feb-12
Warm Water Cove Park	TBD	TBD	Dec-11
Pier 33 North Bulkhead Core & Shell	$2,000,000	500,000	Jul-11
Piers 19 & 23 Improvement Project	$18,000,000	4,500,000	Dec-11
Total Alteration Construction	TBD	TBD	

Projects with ADA Upgrades	Estimated Cost	Estimated Completion
Fisherman's Wharf Accessible walks and ramps - Inner Harbor Walkway Improvements Project	50,000	May-10
Portwide Curbramp Improvements Project	300,000	Jul-10
Total ADA Upgrades Construction	350,000	

Attachment 4 of 4

Future Unfunded ADA Improvements at the Port of San Francisco

Planned projects without funding
TBD - To Be Determined

Planned New Construction Projects	
Seawall Lot 351	TBD
China Basin Seawall Lot 337	TBD
Pier 70 Area	TBD
Hyde Street Harbor	TBD
Downtown Ferry Terminal	TBD

Alteration Construction Projects	Estimated Cost	ADA Improvements	Estimated Completion
Apron Repair - Various Locations Scope: Structural and Surface Repair will Restore Public Walkways/Aprons	$7,000,000	$1,750,000	TBD

ADA Upgrade Projects	Scope	Estimated Cost	Estimated Completion
Public Parks and Public Right-of-Way			
Agua Vista Park	Parking and Curb Ramp	$20,000	Jul-11
Portwide Accessible Street Parking	On-Street Parking	$25,000	Concurrent with Planning
Terry Francois at Illinois Street	Curb Ramps and Sidewalk Repairs	$75,000	Mission Bay Development
Cargo Way	Curb Ramps and Sidewalk Repairs	TBD	TBD
Public Service			
Fisherman's Wharf Harbor Master's Office - Option 1	Parking, Entry, Restroom, Signage & Reception Desk	$1,000,000	TBD
Fisherman's Wharf Harbor Master's Office - Option 2	New Harbor Master Office in the Fisherman's Wharf Joint Operations and Control Building	$2,200,000	TBD

Multi-Tenant Office Building - Public Areas

501 Cesar Chavez Building	Parking, Restroom, Signage & Hardware Upgrades	$450,000	2013
401 Terry Francois Blvd Building	Signage, and Harware Upgrades	$50,000	
Agriculture Building	Entry Door, Interior Path-of-Travel, Drinking Fountain, Signage and Hardware Upgrades	$1,000,000	TBD
Old Admin Office Building (currently at Piers 27/29)	Parking, Entry, Restroom, Signage & Hardware Upgrades	TBD	TBD
Pier 35 Office Area	Entry Door, Elevator Upgrade	$1,000,000	Concurrent with P35 Repairs

PORT OF SAN FRANCISCO

MEMORANDUM

September 14, 2009

TO: MEMBERS, PORT COMMISSION
Hon. Rodney Fong, President
Hon. Stephanie Shakofsky, Vice President
Hon. Michael Hardeman
Hon. Ann Lazarus

FROM: Monique Moyer
Executive Director

SUBJECT: Request authorization to award Construction Contract No. 2721, 401 Terry Francois Boulevard Americans with Disabilities Act (ADA) Upgrades Project in an Amount Not-to-Exceed $297,600

DIRECTOR'S RECOMMENDATION: Approve Attached Resolution

Introduction

Port staff requests that the Port Commission authorize the award of Construction Contract No. 2721, 401 Terry Francois Boulevard Americans with Disabilities Act (ADA) Upgrades Project, to Gold Spring Construction Corporation, the lowest responsive, responsible bidder. This construction project will assist the Port in complying with the Americans with Disabilities Act (ADA) mandate to improve accessibility at regulated Port facilities under Title II of the ADA.

Background

The Port Commission, at its meeting on June 9, 2009, authorized staff to advertise for bids for the Project (Port Commission Resolution 09-31). The Human Rights Commission staff recommended a Local Business Enterprise ("LBE") subcontracting goal of 20% for this contract.

The project scope includes reconstruction of the front entrance by providing new steps, an accessible ramp and installation of new storefront entry doors (see schematic attached hereto). The project will provide ADA upgrades to the existing non-compliant Men's and Women's restrooms located on the first floor of the facility, thus upgrading them to current accessibility requirements. The Project scope also includes renovation of the existing non-compliant railings for the two interior stairways. Under the proposed contract, the work to be performed by Gold Spring Construction Corporation (referred to herein as "Gold Spring"), shall cover all costs of labor, design, supervision, management, materials and equipment. The engineer's estimate for the project is $400,000.

This Print Covers Calendar Item No. 10B

On August 25, 2009, Port staff received eleven bids for this project. Port Engineering staff reviewed the bids and determined that Gold Spring is the lowest responsive, responsible bidder. Engineering staff have also verified that Gold Spring's license and experience meets the bid requirements. Gold Spring's total bid price is $297,600 and 34.4% lower than the engineer's estimate. Gold Spring's bid includes LBE subcontractor participation of 23.3%, which exceeds the HRC goal of 20%.

The Port received two protests from the second lowest bidder. The protests have been resolved successfully. A summary of the bids is attached.

Funding

The project contract cost, and contingency is fully funded by the capital project account CPO 680, Port ADA Transition Fund.

The project is to be funded per the funding allocation shown in the table below:

Title	Amount
Contract Amount	$297,600
10% Project Contingency	$29,760
	$327,360

Schedule

The estimated project schedule is summarized below:

Milestone Activity	Date
Port Commission Award	September 22, 2009
Est. Notice to Proceed (NTP)	October 19, 2009
Est. Start of Work	November 9, 2009
Est. Substantial Completion	April 20, 2010
Est. Final Completion	May 20, 2010

Summary

Port staff recommends that the Port Commission authorize the award of construction Contract No. 2721, 401 Terry Francois Boulevard ADA Upgrades Project, to Gold Spring Construction Corporation, as the lowest responsive, responsible bidder, in a not-to-exceed amount of $297,600, and also authorize staff to increase the contract amount by 10% (or $29,760) through contract modification or change order to a total of $327,360, in the event of unanticipated contingencies. Staff also recommends that the Port Commission authorize the Executive Director to accept the work once it is complete.

Prepared by: Wendy Proctor, Project Architect
For: Edward F. Byrne, Chief Harbor Engineer

PORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 09-57

WHEREAS, the Port Commission previously authorized the advertisement of Construction Contract No. 2721, 401 Terry Francois Boulevard ADA Upgrades Project (the "Project"), at its meeting on June 9, 2009; and

WHEREAS, Port staff received eleven bids on August 25, 2009 for Contract No. 2721; and

WHEREAS, Port Engineering staff reviewed the bids and determined that Gold Spring Construction Corporation is the lowest responsive, responsible bidder; and

WHEREAS, Gold Spring Construction Corporation's total bid price is $297,600; and

WHEREAS, the funds available from the Port's ADA Transition Fund, CPO 680 will fully fund the Project; and

WHEREAS, Gold Spring Construction Corporation's bid satisfies the 20% subcontracting goal for Local Business Enterprises (LBEs) as recommended by the Human Rights Commission (HRC); now, therefore be it

RESOLVED, that the Port Commission hereby authorizes Port staff to award Construction Contract No. 2721, 401 Terry Francois Boulevard ADA Upgrades Project to Gold Spring Construction Corporation, the lowest responsive, responsible bidder, for the not-to-exceed amount of $297,600; and be it further

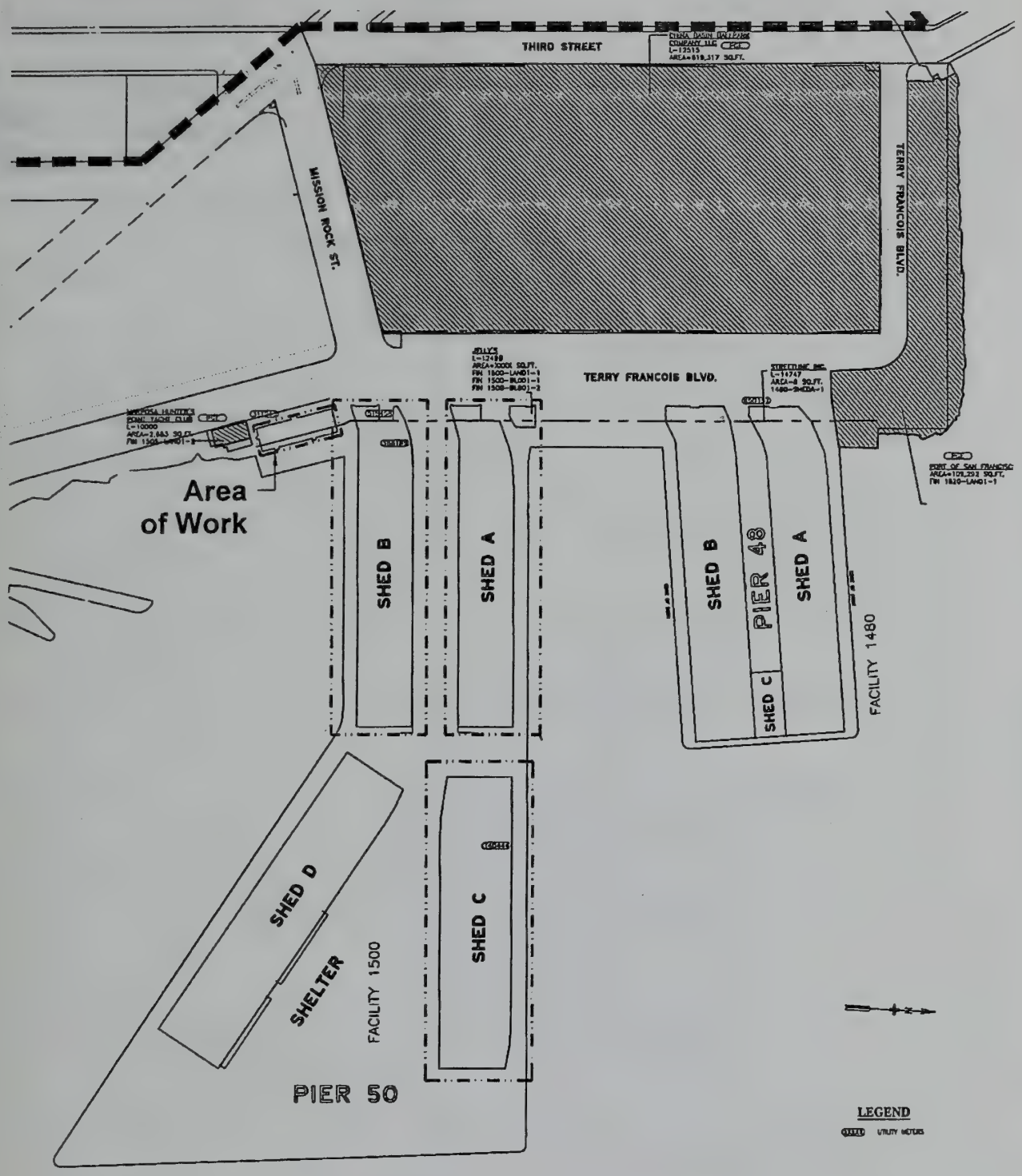
RESOLVED, that the Port Commission authorizes Port staff to increase the contract amount as necessary for unanticipated contingencies by an additional $29,760 (10% of $297,600) through contract modification or change order; and, be it further

RESOLVED, that the Port Commission hereby authorizes the Executive Director to accept the work once it is complete.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of September 22, 2009.

_____

Secretary


THIRD STREET
MISSION ROCK ST.
TERRY FRANCOIS BLVD.
TERRY FRANCOIS BLVD.
Area of Work
SHED B
SHED A
SHED B
PIER 48
SHED A
SHED C
FACILITY 1480
SHED D
SHELTER
FACILITY 1500
SHED C
PIER 50
LEGEND

PROJECT: 401 TERRY FRANCOIS BLVD, ADA ACCESSIBILITY UPGRADES

CONTRACT NO: 2721

BID OPENING: AUGUST 25, 2009, 2:30 P.M.

BID OPENING SUMMARY

BID RANK	BIDDERS	CERTIFIED SF LBE?	TOTAL BID PRICE
1	GOLD SPRING CONSTRUCTION CO. 637 HOWARD STREET SAN FRANCISCO, CA 94105 415 951-9501	Y	297,600.00
2	JMA CONSTRUCTION 33 DORMAN AVE. SAN FRANCISCO, CA 94124 415 571-5119	Y	333,000.00
3	NICOLES WORK, INC. 2748 35TH AVENUE SAN FRANCISCO, CA 94116 650 892-6680	Y	344,888.00
4	KCK BUILDERS, INC. 1320 EGBERT AVE SAN FRANCISCO, CA. 94124 415 459-8698	Y	358,500.00
5	ERIC F. ANDERSON, INC. 1066 BEECHER ST. SAN LEANDRO, CA. 94577 510 430-8404	N	373,332.00
6	ALDE CONSTRUCTION 540 VALVERDE DR. SOUTH SAN FRANCISCO, CA. 94080 650 296-8718	Y	388,000.00
7	BEALS MARTIN AND ASSOCIATES, INC. 2596 BAY ROAD REDWOOD CITY, CA 94063 650 364-8141	N	428,834.00
8	SOUTHWEST CONSTRUCTION & PROJECT MANAGEMENT 401 TERRY FRANCOIS BLVD, SUITE 214 SAN FRANCISCO, CA 94107 415 944-0861	Y	432,466.00
9	GRAND INDUSTRIES, INC. 1362-53RD AVE. OAKLAND, CA. 94601 510 534-6502	N	434,560.00
10	RIVER VIEW CONSTRUCTION 4003 SEAPORT BLVD WEST SACRAMENTO, CA 95691 916 488-9494	N	438,984.00
11	RODAN BUILDERS, INC. 859 COWAN RD BURLINGAME, CA 94010 650 508-1700	N	462,800.00

Subcontracting Goal: 20% Total Number of Calendar Days: 180

PROJECT: **401 TERRY FRANCOIS BLVD, ADA ACCESSIBILITY UPGRADES**

CONTRACT NO: **2721**

Apparent Low Bidder: GOLD SPRING CONSTRUCTION CO.
Total Bid: $297,600.00

EST:	410,000		
AMOUNT UNDER:	112,400	PERCENT UNDER EST:	37.77
AVERAGE:	390,269.45	STANDARD DEVIATION:	53,001.35

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PORT OF SAN FRANCISCO

MEMORANDUM

September 16, 2009

TO: MEMBERS, PORT COMMISSION
Hon. Rodney Fong, President
Hon. Stephanie Shakofsky, Vice President
Hon. Michael Hardeman
Hon. Ann Lazarus

FROM: Monique Moyer
Executive Director

SUBJECT: Request authorization to advertise for competitive bids for the Pier 45 Drainage Improvements Project, Contract 2719

DIRECTOR'S RECOMMENDATION: Approve Attached Resolution

INTRODUCTION

Port staff request authorization to advertise for competitive bids for Contract 2719, the Pier 45 Drainage Improvements Project. The project scope includes installation of a pumping manifold to allow boats moored along the west apron of Pier 45 (Sheds B and D) to tie-in and discharge herring gurry to a new pump station located between the two Pier 45 fish processing sheds. In addition, a new stormwater collection system would be installed along the west apron of Pier 45 to direct all stormwater runoff from this area to the City's sewer system. The project includes installation of a new sewer pump station at Pier 45 necessary to convey the new discharge to the City's sewer system.

The proposed project was originally approved for bid in August 2008, but was put on hold because the grant funding source administered through the California State Water Resources Control Board (SWRCB) was frozen in December 2008 during the state budget crisis. During 2009 Port staff worked with the SWRCB to transition the project to federal stimulus funds, acceptance of which was approved by the Port Commission in April 2009. The project was originally put out to bid in June 2009 setting subcontracting goals under the Federal Environmental Protection Agency's (EPA) statutory Disadvantaged Business Enterprise (DBE) goals and using Caltrans bidding requirements. The Port rejected all bids because the invitation for bids should have required compliance with EPA's Fair Share Objective DBE participation goals and using the EPA's bidding requirements. The Pier 45 Drainage Improvements project manual has been revised to incorporate the correct DBE requirements, along with other

This Print Covers Calendar Item No. 10C

requirements specific to the administration of federal stimulus funds. The Port wishes to readvertise for bids.

BACKGROUND

The proposed Project includes installation of a pumpout manifold that would allow herring boats moored along the north end of Pier 45 to tie-in and discharge herring gurry to an existing sanitary sewer pump station located between the two Pier 45 fish processing sheds1. In addition, a new storm water collection system would be installed along the north deck of Pier 45 to direct all storm water runoff from this area to the City's sewer system through a new force main sewer. The Project will help reduce bacterial loadings in the vicinity of Aquatic Park and provide for overall water quality improvement in support of recreational use at this location. The redirecting of polluted stormwater runoff away from Fisherman's Wharf Harbor will also help ensure regulatory compliance for the Port's fish processing tenants at Pier 45.

To avoid delay of the work and to minimize disruption to the Port tenants along Taylor Street as a result of the decision to reject bids, the project has been modified such that the portion of the force main sewer construction along Taylor Street between Little Embarcadero and Jefferson Street has been migrated over to a roadway improvements project currently being administered through the San Francisco Department of Public Works (DPW) along Taylor Street. The DPW Taylor Street Improvement Project will begin construction this fall and will complete by May 2009 as reported to the Port Commission in the informational presentation at the September 8th meeting. This portion of work will be funded through the Port Stormwater Management Program.

Bids will be advertised to reach the contractor market through the following channels:

- Human Rights Commission list of contractors
- Human Resources Outreach list of contractors
- Port Engineering list of contractors
- Port Internet
- City and County of San Francisco purchasing internet
- Plan Rooms (Builders Exchange, Contractors Information Network, etc.)
- Newspapers (SF Examiner and Small Business Exchange)

In the solicitation of bids for this project, Port staff will follow Federal requirements for DBE subcontracting goals, which include best faith efforts of 24% Minority-owned Business Enterprise and 8% Women-owned Business Enterprise participation as certified under the Environmental Protection Agency's program. When the Commission first approved issuance of an invitation for bids for this project, the Port informed the Commission that City DBE requirements would apply. However, the terms of the grant prohibit the City from requiring compliance with the City's DBE program because the program grants geographic preferences.

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1 Gurry is a term used to describe fish parts that collect in a boat hold during the process of conveying the catch from the boat to the landside facility. Fishing boats currently discharge gurry back to Fisherman's Wharf Inner Harbor.

Funding

The Engineer's Cost Estimate for this project is $1.76 million, of which $163,703 has already been allocated from the Port Stormwater Control Program (GPO 228) to pay for force main construction along Taylor Street. The remainder of the project will be funded through a project established to administer the federal economic stimulus funds (CPO153), with contingency to be provided for through the Port Stormwater Control Program.

Funding Source	Funding Amount
CPO 153 – Pier 45 Drainage Improvements Project	$1,548,645
GPO 228 – Port Stormwater Control Program	$394,036
Total	$1,942,681

Regulatory Approvals

As a minor modification to an existing facility that provides sewerage or other public utility service, the project received a Class 1(b) Categorical Exemption under the California Environmental Quality Act on November 21, 2007. The San Francisco Bay Conservation and Development Commission (BCDC) approved the proposed work during its renewal in 2008 of the Portwide maintenance permit M-77-17.

Schedule

Following is the anticipated project schedule:

Commission Approval to Advertise	September 22, 2009
Commission Authorization to Award	October 27, 2009
Notice to Proceed	November 1, 2009
Substantial Completion	June 1, 2009

Project phasing and impacts have been discussed with both the Taylor Street Restaurant Association and the Pier 45 Fish Processors. A detailed summary of tenant outreach efforts for work along Taylor Street is included in the Informational Presentation on Taylor Street Improvement Project presented at the September 8, 2009 Port Commission meeting.

SUMMARY

Port staff is prepared to seek competitive bids for the Pier 45 Drainage Improvements Project. Staff therefore request Port Commission authorization to advertise for competitive bids for the Pier 45 Drainage Improvements Project, Contract 2719.

Prepared By: John Mundy, Utility Specialist

For: Edward Byrne, Chief Harbor Engineer

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 09-58

WHEREAS, Port staff seek authorization to obtain competitive bids for a contract to install drainage and sewage utility improvements along the west Apron of Pier 45, entitled the Pier 45 Drainage Improvements Project, Contract 2719; and

WHEREAS Port staff, San Francisco Department of Public Works staff, and Creegan and D'Angelo Engineers have completed design drawings and specifications for the Pier 45 Drainage Improvements Project; and

WHEREAS, the current engineering construction cost estimate for this project is $1.76 million; and

WHEREAS, the project is funded with Port capital budget monies with current funding at $1.94 million; and

WHEREAS, the project was deemed Categorically Exempt under the California Environmental Quality Act (CEQA) on November 21, 2007, and will receive authorization from the Bay Conservation and Development Cmmission in the coming month; and

WHEREAS, in solicitation of bids for this project, Port staff will incorporate 24% Minority-owned Business Enterprise and 8% Women-owned Business Enterpise subcontracting goals as required by the United States Environmental Protection Agency Disadvantaged Business Program; now, therefore be it

RESOLVED, that the San Francisco Port Commission hereby authorizes Port staff to advertise, and accept competitive bids for, the Pier 45 Drainage Improvements Project, Contract No. 2719.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of September 22, 2009.

_____
Secretary

PORT OF SAN FRANCISCO

MEMORANDUM

September 16, 2009

TO: MEMBERS, PORT COMMISSION
Hon. Rodney Fong, President
Hon. Stephanie Shakofsky, Vice President
Hon. Michael Hardeman
Hon. Ann Lazarus

FROM: Monique Moyer
Executive Director

SUBJECT: Request authorization to submit to the Foreign Trade Zone Board an application for Alternative Site Framework Modification No. 1 of Foreign Trade Zone No. 3 for General Zone administrative self-management, improved integration with the City's Office of Workforce and Economic Development, and maintenance of Subzones 3B and 3C as well as on- and off-San Francisco International Airport, common-user, Fuel Storage and Delivery Systems and Facilities

DIRECTOR'S RECOMMENDATION: Approve Attached Resolution

BACKGROUND

Foreign-trade zones were established by the U.S. Congress in 1934 to stimulate economic development in communities by providing businesses with facilities and economic advantages to conduct international trade activities. A foreign trade zone designation is granted by the Foreign Trade Zones Board within the U.S. Department of Commerce. Foreign Trade Zones allow imported merchandise to be stored, sold, auctioned, tested, cleaned, calibrated, consolidated, sampled, relabeled, repackaged, inspected, displayed, repaired, commingled, manipulated, mixed, processed, assembled, manufactured, salvaged, or destroyed; these uses provide a variety of advantages in international trade.

In 1948, the Port of San Francisco received a Grant of Authority to establish, operate and maintain a foreign trade zone for the City and County of San Francisco. A specific general zone was opened in 1948 at Pier 45 and subsequently moved to Piers 19-23, where it operated until December 2008. The zone was operated as a brick and mortar cargo facility for its first fifty years. Over time, its location on the Port's northern waterfront became operationally more difficult and truck loading/unloading on the busy Embarcadero made cargo handling inefficient.

This Print Covers Calendar Item No. 11A

In March 1998, the Port entered into a thirty-year operating agreement and lease with Big C Traders, designed to develop office space and virtual trade showrooms for foreign trade zone vendors at Piers 19-23. Importantly and on a parallel track, the new operating agreement limited the Port's participation in the everyday operations of the zone and transferred the responsibility for complying with federal regulatory procedures to the tenant. However, a downturn in commercial office leasing occasioned by the bursting of the dot.com bubble made it commercially difficult for Big C Traders to fulfill their lease obligations and resulted in the Port entering into a stipulated judgment rescinding the tenant's development rights but allowing an additional five-year lease to continue as a warehouse and Foreign Trade Zone operator. This lease expired in December 2008 and was not renewed by the Port due to continuing lease and operating deficiencies.

Sub-Zones

Subzones are special-purpose ancillary type areas authorized by the Foreign Trade Board, through grantees of public zones for operations that cannot be accommodated within an existing zone. In 1998 the Port Commission authorized a Foreign Trade Subzone application for Chevron USA's Richmond, California refinery. Subsequently, the benefits of zone status were extended to the jet fuel storage and delivery facilities at and adjacent to San Francisco International Airport. This sub-zone agreement is still in place. A major practical effect of this modification has been to increase the annual revenue stream from the Chevron Subzone, which had been $7,500 per year, to $20,000 per year. (Federal law only allow Grantees to assess nominal administrative fees to Subzone applicants)

New Approach/Next Steps

The Port has analyzed possible new operating scenarios that will result in a revitalized effort to market the benefits of the Foreign Trade Zone grant. The proposed first step of this effort is to request that the Foreign Trade Zone Board in Washington D.C. designate an Alternative Site Framework Modification to reorganize the zone to better serve the trade-related needs of the San Francisco Peninsula and the entire San Francisco Bay Area. The previous location of the General Purpose Zone at Piers 19-23 became functionally obsolete based on the increased non-industrial nature of the Port's northern waterfront. The Port will continue to identify, evaluate, develop and implement future operating scenarios by better integrating its services with new economic development programs being offered by the City of San Francisco and the State of California.

This application formally seeks from the Foreign Trade Zone Board:

1. To temporarily, administratively self-manage its Foreign Trade Zone;
2. To suspend General Zone services located at Piers 19-23 (and other Port facilities);
3. To continue to authorize use of its petroleum Subzones; and
4. To maintain the FTZ designation of common fueling facilities at SFO.

San Francisco has long been a beacon for innovative people and companies. As a result, the City has become an international hub for a number of pioneering, forward-thinking industries - including Life Sciences & Health Care, Information Technology & Digital Media, Clean Technology, iPDR (Integrated Production, Distribution and Repair), Retail, Hospitality, and International Commerce. During economic downturns, companies are attracted to foreign trade zones to gain critical cost savings and position themselves in the economic market.

Reorganizing the marketing of Foreign Trade Zone No. 3 and better integrating it with the City's economic and workforce development programs will expand the zone's potential for success, providing improved access to local, state and federal tax credits, energy-efficiency programs, employee training funds, employee recruitment, training and retention services, and site location assistance to help facilitate start-up, expansion or relocation.

STAFF RECOMMENDATION
Port staff recommends that the Port Commission authorize the Executive Director to submit Alternative Site Framework Modification No. 1 of Foreign Trade Zone No. 3 to the Foreign Trade Zone Board.

Prepared by: Peter Dailey, Deputy Director, Maritime

Attachments:

1. Letter from John Martin, Director, SF International Airport
2. Mark Chandler, Director, SF Office of International Trade and Commerce
3. Leonard Brooks, Manager Bay Area Cargo Operations, Metro Ports
4. Alana Knowles, Finance Manager, Richmond Refinery

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 09-56

WHEREAS, Charter Section B.3581 empowers the Port Commission with the authority and duty to use, conduct, maintain, manage, regulate and control the lands within the Port jurisdiction; and

WHEREAS, the Port of San Francisco, on March 10, 1948, received a Grant of Authority from the U.S. Department of Commerce to Establish, Operate and Maintain Foreign-Trade Zone 3 in San Francisco, CA; and

WHEREAS, Foreign Trade Zones were established to stimulate economic development in communities by providing businesses with facilities for conducting international trade; and

WHEREAS, the Foreign Trade Zone had been operating in a congested, northern waterfront location; and

WHEREAS, the lease and operating agreement with the prior operator of the Foreign Trade Zone expired and was not renewed due to declining activity, lease compliance issues and a lack of regulatory responsiveness; and

WHEREAS, Subzone 3B with Chevron-Texaco for their Richmond, CA refinery, tank farm and pipeline distribution network continues to be productive and provides public benefit, and Subzone 3C with Tesoro Refining of Martinez, CA seeks to be available should economic conditions warrant; and

WHEREAS, the Port staff will seek foreign trade zone status for companies that identify need or potential; now therefore, be it

RESOLVED, that the Port Commission authorize the Executive Director to submit Alternative Site Framework Modification No. 1 of Foreign Trade Zone No. 3 to the Foreign Trade Zone Board.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of September 22, 2009.

_____
Secretary

SFO

San Francisco International Airport

P.O. Box 8097
San Francisco, CA 94128
Tel 650.821.5000
Fax 650.821.5005
www.flysfo.com

August 31, 2009

Mr. Peter Dailey
Director of Maritime
Port of San Francisco
Pier 1
San Francisco, CA 94111

AIRPORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

GAVIN NEWSOM
MAYOR

LARRY MAZZOLA
PRESIDENT

LINDA S. CRAYTON
VICE PRESIDENT

CARYL ITO

ELEANOR JOHNS

HARD J. GUGGENHIME

JOHN L. MARTIN
AIRPORT DIRECTOR

Dear ~~Mr. Dailey~~ Peter:

I am pleased to write in support of San Francisco's new Alternative Site Framework Modification for Foreign Trade Zone #3.

Your efforts to better integrate the Port's goods-movement services and facilities with the City's exhaustive international trade and development programs will expand our capability to attract additional international business and cargoes and will benefit the business of San Francisco International.

We concur that San Francisco's innovative biotech, renewable energy and China initiatives provide a strong strategy for international business growth. Access to the benefits of foreign trade zones will improve San Francisco's chance of success in these ventures.

We look forward to the success of the reconstituted foreign trade zone.

Very truly yours,

John L. Martin
Airport Director

ECONOMIC AND WORKFORCE DEVELOPMENT
MICHAEL COHEN, DIRECTOR

CITY AND COUNTY OF SAN FRANCISCO
GAVIN NEWSOM, MAYOR

September 14, 2009

Mr. Peter Dailey
Port of San Francisco
Pier 1
San Francisco, CA 94111

Dear Mr. Dailey:

Re: Foreign Trade Zone #3

On behalf of the San Francisco Mayor's Office of Workforce and Economic Development and the International Trade and Commerce Office, we are pleased to write in strong support of San Francisco's new Alternative Site Framework modification.

San Francisco's efforts to better integrate the Port's goods-movement services and facilities with the City's exhaustive international trade and development programs will expand our capability to attract additional international business and cargoes.

San Francisco's innovative biotech, renewable energy, green technology, emerging digital media and China initiatives provide a strong strategy for international business growth. These developing technologies will help drive high-value manufacturing in the United States. Access to the benefits of foreign trade zones will improve San Francisco's chance of success in these ventures. Additionally, expanded market access into China will, likewise, increase the potential for re-exported products.

San Francisco boasts a deeply engrained culture of innovation, a rich network of venture funders, clean-tech companies, prominent centers of academic excellence, and a number of forward looking government policies that is driving the demand for clean technology solutions. We strongly believe that your Alternative Site Framework for the FTZ will provide us with a useful and effective tool in expanding our international economic activities. We look forward to working closely with you and your colleagues to ensure great success for the FTZ #3.

Sincerely,

Mark Chandler
Director, San Francisco Office of International Trade and Commerce

1 DR. CARLTON B. GOODLETT PLACE, ROOM 448, SAN FRANCISCO, CA 94102
(415) 554-6969 VOICE (415) 554-6018 FAX

METRO PORTS

EXCELLENCE SINCE 1923

Date August 17, 2009

Port of San Francisco

Pier 1

San Francisco, CA 94111

Re: Foreign Trade Zone #3

Gentlemen:

We are pleased to write in support of San Francisco's new Alternative Site Framework modification.

San Francisco's efforts to better integrate the Port's goods-movement services and facilities with the City's exhaustive international trade and development programs will expand our capability to attract additional international business and cargoes.

Foreign Trade Zone #3 has long been housed in an ever-more-crowded tourist-centric neighborhood. Additionally its nineteenth century facilities have become functionally obsolete for today's modern truck fleets. Movement to a more compatible industrial neighborhood will significantly improve its utility for our clients. Facilities at places like Pier 80 are an excellent example of improved location and access.

San Francisco's innovative biotech, renewable energy and China initiatives provide a strong strategy for international business growth. These developing technologies will help drive high-value manufacturing in the United States. Access to the benefits of foreign trade zones will improve San Francisco's chance of success in these ventures. Additionally, expanded market access into China will, likewise, increase the potential for re-exported products.

San Francisco boasts a deeply engrained culture of innovation, a rich network of venture funders, clean-tech companies, prominent centers of academic excellence, and a number of forward looking government policies that is driving the demand for clean technology solutions.

Sincerely,

Leonard Brooks

Metro Ports

Manager Bay Area Cargo Operations

METRO PORTS dba METROPOLITAN STEVEDORE COMPANY

Pier 80 • 401 CESAR CHAVEZ ST. • SAN FRANCISCO, CALIFORNIA 94124
PHONE 415.970-2561 • WWW.METPORTS.COM

Alana Knowles
Manager of Finance

Richmond Refinery
Chevron Products Company
841 Chevron Way
Richmond, CA 94802-0272
Tel 510 242 4444

September 14, 2009

Port of San Francisco
Pier 1
San Francisco, CA 94111

Re: Foreign Trade Zone #3

To Whom It May Concern:

Chevron U.S.A. Inc. is supportive of the City/Port of San Francisco's (Grantee of Foreign Trade Zone #3) current efforts to find an alternative site for its general purpose trade zone operations and to better align its existing foreign trade zone operations and future foreign trade zone marketing with the City's economic development efforts.

Foreign Trade Zone #3 has long been housed in a very popular tourist area along the San Francisco waterfront. Movement to a more compatible industrial neighborhood could significantly improve the zone's utility for users/clients and better integrate the Port's goods-movement services and facilities with the City's international trade and development programs.

Chevron U.S.A. Inc. (Chevron) has operated its Richmond, California oil & gas refining operations as a special purpose subzone, Foreign Trade Subzone No. 3B (a Subzone of Zone No. 3), for over 11 years. While our subzone operations are completely independent from the general purpose zone operations in San Francisco, Chevron has enjoyed a mutually beneficial relationship with the Port over the years, the Port supporting Chevron's subzone operations and Chevron supporting the Port's involvement in beneficial international trade activities.

Sincerely,

Alana Knowles
Finance Manager
Richmond Refinery

SAN FRANCISCO PORT COMMISSION

SEPTEMBER 22, 2009
MINUTES OF THE MEETING

GOVERNMENT
DOCUMENTS DEPT

OCT - 9 2009

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PUBLIC LIBRARY

MEMBERS, PORT COMMISSION
HON. RODNEY FONG, PRESIDENT
HON. STEPHANIE SHAKOFSKY, VICE PRESIDENT
HON. MICHAEL HARDEMAN
HON. ANN LAZARUS

MONIQUE MOYER, EXECUTIVE DIRECTOR
AMY QUESADA, COMMISSION SECRETARY

CITY & COUNTY OF SAN FRANCISCO
PORT COMMISSION

MINUTES OF THE MEETING
SEPTEMBER 22, 2009

1. CALL TO ORDER / ROLL CALL

Commission Vice President Stephanie Shakofsky called the meeting to order at 2:35 p.m. The following Commissioners were present: Stephanie Shakofsky, Michael Hardeman and Ann Lazarus. Commissioner Rodney Fong was on jury duty.

2. APPROVAL OF MINUTES - September 8, 2009

ACTION: Commissioner Hardeman moved approval; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor; the minutes of the September 8, 2009 were adopted.

3. PUBLIC COMMENT ON EXECUTIVE SESSION

4. EXECUTIVE SESSION

A. Vote on whether to hold closed session to confer with Legal Counsel and Real Property Negotiator.

ACTION: Commissioner Hardeman moved approval; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor.

At 2:36 p.m., the Port Commission withdrew to executive session to discuss the following:

(1) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – This is specifically authorized under California Government Code Section 54956.8. ***This session is closed to any non-City/Port representative.****

5. RECONVENE IN OPEN SESSION

At 3:17 p.m., the Commission withdrew from executive session and reconvened in open session.

ACTION: Commissioner Hardeman made a motion to adjourn executive session and reconvene in open session; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor.

ACTION: Commissioner Hardeman made a motion to not disclose any information discussed in executive session; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor.

6. **ANNOUNCEMENTS.** The Commission Secretary announced the following:

Commissioner Rodney Fong is excused today because he's on jury duty.

A. Announcement of Prohibition of Sound Producing Devices During the Meeting

The ringing of and use of cell phones, pagers, and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic device.

B. Announcement of Time Allotment For Public Comments

A member of the public has up to three minutes to make pertinent public comments on each agenda item unless the Port Commission adopts a shorter period on any item.

7. **EXECUTIVE**

A. Executive Director's Report: Executive Director Monique Moyer reported the following:

- In Memoriam – Fred Henning, General Manager of Bay & Delta Maritime

Ms. Moyer indicated that as she reported on August 3, 2009, the Port lost a good friend, Fred Henning. He was the general manager of Bay Delta Maritime, a pilot, a captain, and an administrator for the company. Bay Delta is one of the Port's tug and tow operators, currently housed at Pier 15, soon to be housed, at Pier 17. Fred was very active in the community as well as in the maritime industry. He was on the board of the Marine Exchange, the entity we use to coordinate maritime issues throughout the Bay. He was on the board of the California Maritime Academy Foundation, so he was very influential in raising their profile and raising funds for the Academy. He was a Harbor Safety Committee member. Fred is survived by his wife, Nicholle, his parents and his two young children, Nathan 7 and Greta 4.

She remembers meeting Fred when she first became Port Director and the Port hosted a "Come Meet the Port Director" event. Fred was one of the first people that she met milling around. She remembers him clearly because he had a beautiful wide smile of welcome for her. Each and every time she passed him on the waterfront, whether walking or at a business

meeting, he always shared that same smile with her. He was always friendly. He always had a kind word, but what struck her the most was he always had an air of confidence and excitement about him. He is definitely missed at the Port.

Commissioner Shakofsky read the plaque: "In memory of Captain Fred Henning, loving husband, father and son, longtime friend of the Port and maritime advocate, we love and miss you, from the Port of San Francisco" and presented it to Capt. Henning's wife.

On behalf of her husband, Nicholle Henning thanked the Port for this honor. She appreciates the fact that the Port recognizes the love and passion that he had for the industry and the community here and he would have been deeply touched with this honor.

Peter Dailey, Deputy Director of Maritime, thanked Nicholle for being here today. It was a sad day when we heard of Fred's passing. He deeply cared about the maritime industry and made a lot of friends on this waterfront. He loved and protected San Francisco bay. He was a true gentleman. That word is bandied about freely these days, but he was really a gentleman on a rough and tumble environment of the waterfront. The seven and a half miles of waterfront can be crazy but Fred was an island of sanity and reason.

A couple of weeks ago, the Port celebrated its development agreement with the Exploratorium at Piers 15/17. Without Fred's work and intervention with the negotiations with Bay and Delta, the Exploratorium, and the Port, and moving it around, that deal never would have happened. He was sane and practical and a pleasure to work with.

The Coast Guard also recognized Fred. In 2004, they awarded him a Meritorious Service Award as a member of the Northern California Harbor Safety Committee. After the Cosco Busan incident in the Bay, Fred was very active with federal and state authorities in putting new protocols together to make sure that kind of thing never happens again. His efforts were praised nationally. Fred, master mariner, master commander, sea captain, could sail a ship in any kind of weather. He will be missed. He was a gentleman, and we are all better off for knowing him.

Michael Nerney, Maritime Division, indicated that he knew Fred ever since he first joined Bay Delta in the 1990's. At that time, he was the manager of a local steamship agency, and used bay delta tugs on many of their ships, especially the cruise ships at Pier 35. As general manager of Bay Delta, Fred was the go-to-guy at the company, and it was clear to everyone who worked with Bay Delta that the owners had full confidence in his abilities, and they were very well placed. Fred was extremely polite, friendly, and positive. He served on many very important committees. He loved his alma mater, California Maritime Academy in Vallejo, and worked very hard

to support the school. He also had a warm spot in his heart for his alma mater, St. Mary's College, because that is where his wife went to school. Fred was a wonderful guy and will definitely be missed.

Lynn Korwatch, Marine Exchange, indicated that it is somewhat bittersweet for her because it was only back in May that Fred stood before the Commission extolling the value and the contributions that the Marine Exchange made on their 150th anniversary. To have the privilege to join the Port this afternoon and talk about what an incredible man Fred was is an honor for her. She had the opportunity to serve with Fred. He was on her board at the Marine Exchange. She served with him on the California Maritime Academy Foundation, the Alumni Association, the Harbor Safety Committee, and innumerable other boards and committees within this region. Despite the fact that he graduated from the academy many years after she did, he was always the sane one at those committees. He always had an aura of wisdom and well thought out comments and never one to speak off the cuff without having thought through his thoughts and was very articulate. Fred will be sorely missed.

Ken Koskelin, Port Manager of Norton Lilly International, indicated that he is saddened but grateful to have the opportunity to be here this afternoon to pay tribute to Fred Henning. He was a husband, a father, and a dear friend of the maritime community. To many of us, he was a mentor. To all of us, he was a gentleman, a friend, and a professional in everything he undertook to do. He will be sorely missed by all.

Bill Nickson, Transmarine Navigation, thanked the Port for the privilege of giving honor to Fred Henning today. In the forest of our lives, Fred Henning's tree definitely towered high above. Not so much in material riches or political power, but in the enormity of his character and contributions. Rare is the man so well known to have never said a mean word to any man. Those of us who knew Fred can always say we knew such a man. In business, community, and family, Fred's Herculean efforts and genteel touch are truly stories of legend. Fred was enormously respected by everyone who had the privilege to know him. Fred modeled the highest bar of the many best parts of our humanity - comprehension, compassion, appreciation, fairness, reason, and conciliation, lofty attributes all the rest of us only hope. On a good day, we might just partially achieve.

Ms. Moyer thanked Mrs. Henning for coming today and indicated that she is always welcome at the Port. We expect her to walk the waterfront with a big smile and help us close our deals. She extended the Port's best wishes to her children.

- Passage of AB 1176, Port's Infrastructure Financing District at Pier 70

  AB 1176 is the Port's legislation pending at the state level to assist with the Port's infrastructure financing district at Pier 70. The Assembly passed the legislation on a vote of 80 to 0, and the Senate passed the legislation on a vote of 40 to 0. If we could just get a 1 to 0 vote from the Governor, we will be well on our way. Any helpful hints, prayers, nudges and letters of support would be appreciated. She hopes to be able to report soon that the Governor signed the legislation.

- Deep Sea Encounter, a Telegraph Hill Dwellers' Underwater Soiree & General Membership Meeting at Aquarium of the Bay at Pier 39 – September 28, 2009 at 6 p.m.

  The Telegraph Hill Dwellers will be holding their annual general membership meeting on September 28, 2009 at 6:00 p.m. at the Aquarium of the Bay at Pier 39 and it is entitled "A Deep Sea Encounter." In addition to having a lot of fun, the featured speaker of the evening will be the President and CEO of the Bay Institute, John Frawley. She encouraged people to attend the event.

- San Francisco Planning Commission's Walking Tour (4:30 p.m.) and Community Workshop (6 p.m.) on the Northeast Embarcadero Study – September 30, 2009

  On Wednesday, September 30, 2009, the San Francisco Planning Commission will have a walking tour at 4:30 p.m. followed by a community workshop at 6:00 p.m. on the Northeast Embarcadero Study. The City Planning will be presenting the study's draft recommendations at the workshop. They will present their initial recommendations for open space, improvements to the public realm, and urban design guidelines for new development. They are studying the use of the surface parking lots that the Port holds from Washington all the way up to Pier 35. At 4:30 p.m., they will conduct an optional walking tour of the study area where they can discuss place-specific challenges and opportunities. If anyone's interested in taking a look at their analysis for the workshop, it will be posted on their website at http://nes.sfplanning.org on September 23, 2009.

- *Saving the Bay* Premier on KQED 9HD on October 8 & 15, 2009 at 8 p.m.

  We have been watching with great interest the creation of *Saving the Bay*, a four-hour documentary series which will premiere on public television beginning in October. It is intended to be four one-hour episodes regarding the San Francisco bay. The first episode is titled "Marble of Nature," which covers pre-history to 1848. The next episode is titled "Harbor of Harbors", which covers 1849 to 1906. The next is titled "Miracle Workers," which covers 1906 to 1959. Ms. Moyer thought that 2009 would be a better ending date. Then, the last one is titled "Bay in the Balance,"

which is 1960 to the present. *Saving the Bay* is a co-production of Ron Blatman and KQED/KTEH public television. It is sponsored by the Port of San Francisco, the Metropolitan Transportation Commission and the Bay Area Toll Authority. The Port and the Fisherman's Wharf Community Benefit District have each sponsored 15-second spots, which will appear before and after each show that airs on October 8 and October 15. It will be a fantastic way to discuss our history and to talk about where we are today.

- Closure of Herring Season

  On September 3, 2009, the California Fish and Game Commission cancelled the 2009-2010 herring season. This comes on the heels of two consecutive years of salmon season being canceled in 2008 and 2009. The herring season is from December 1 through early March. In 2000, San Francisco was populated by approximately 50 transient herring boats. Herring has been declining for some period of time. Last season, we were down to 15 herring boats and there will be zero boats this season. The low population of herring is attributed by Fish and Game to be due to the below average rainfall and ocean conditions and not to overfishing. We sincerely hope that the season can bounce back in 2010.

- John Frawley, President and Chief Executive Office of Bay Institute

  The Bay Institute has created a new position President and CEO and appointed John Frawley to that position. The Bay Institute recently acquired Aquarium by the Bay, and John Frawley's position was acquired with it. He is going to be heading the Bay Institute as well as Aquarium by the Bay. This is great news for the Port. It will create a lot of synergy between our two organizations. John has been with the Aquarium by the Bay for 13 years. Time has flown by, and he has done a remarkable job turning the Aquarium into a non- profit marine nature center.

- Commendation for Jim Chappell, Citizen Planning and Institute Director at SPUR, on his retirement

  Ms. Moyer indicated that we're saying good-bye and hello to another good friend of ours, Jim Chappell from SPUR. He joined SPUR in 1994 as the executive director at a time where SPUR was not a household name. SPUR is certainly a household name now for anybody that's in the real estate business in San Francisco. Thanks to the amazing achievements of Jim Chappell who, for reasons unknown to her, grew his board to seventy members. She's not quite sure how he managed through that but God bless him for doing it. Although when he has to fund raise, having seventy board members is probably not a bad thing.

  Jim is best known for leading the revitalization of SPUR throughout the 90s and then crowning glory of his career at SPUR is the fabulously new

urban center on Mission Street, which he spent at least the last five years, if not longer, pursuing.

What she's observed in the time that she's known Jim is that, in his time of championing urban reform and urban renewal in San Francisco, he's really come to be a firm believer in the benefits of that. For him, those benefits always seem to be articulated as economic benefits, vibrancy benefits, as well as aesthetic benefits. What she's most admired about him is that he's willing to take a stand on those issues for the benefit of the broader San Francisco, even when it's unpopular in a smaller neighborhood or in a smaller district.

In her tenure as Port Director, Jim has been a fantastic ally and friend of the Port, first putting us together with EDAW for their 25th anniversary intern program, which he finagled them to do it for Pier 70.

Then he helped the Port by deciding that a white paper on the future of the waterfront was more than overdue, and he and a group of people took a really hard look at the Port's failing infrastructure and what that could mean for the long run. That white paper helped set the tone for what then became a successful Proposition A for general obligation bonds which, for the first time ever, provided the Port with tax funds, as well as Proposition D, which provides with unique redevelopment financing tools for Pier 70.

Lastly, he facilitated the Piero Patri Fellowship, which is an annual fellowship to focus on waterfront issues and, last night was the airing of this year's awardee, who focused on bike transportation along the Embarcadero all the way through the southern waterfront.

In between, he's appeared before the Port Commission numerous times to encourage the Commission as well as many other forums. Because of him, people have really come to have a nice feeling of confidence about the Port.

She's extremely grateful for Jim's guidance, mentorship, cheerleading and his "we can do it" attitude. We congratulate him on his retirement from SPUR, and we look forward to working with him in whatever is ahead.

Commissioner Shakofsky clarified that when Monique said that Jim was a leader in the planning in the 90s, she meant 1990s. It was not Jim's plan after the Great Earthquake of 1906. It's a very sad moment for her. Jim is a friend of hers and one of those people who possesses rare community spirit.

Commissioner Shakofsky presented a plaque to Jim Chappell. It read, "With gratitude and friendship, from the Port of San Francisco to Jim Chappell."

Brad Benson, Special Projects Manager, added his voice of thanks to Jim's advocacy in the city. He's been active and working in city government for twelve years, and the first seven years was spent at the Board of Supervisors. He's had a bird's eye view of Jim at City Hall and how he interacted with City Hall. Jim is not afraid to speak his mind. He can stand in front of a large audience who are militantly advocating whatever their position is, and he can go up and speak the truth in the face of opposition without fear. There are very few voices in San Francisco civic circles like that and he appreciates that. Echoing some of what Monique said, what Jim has created with SPUR and what Gabe has followed on and built on is a place where one can debate public policy in the way that one cannot at the department level or at the Board of Supervisors or in the Mayor's Office. He appreciates the opportunity to work with all the folks on the hard choices at the Port of San Francisco paper that we coordinated on.

He talked to Diane Oshima, who had a conflict and could not be here today, but she also wanted to extend her thanks. Diane was the Port staff person who labored through the Waterfront Land Use planning process. SPUR was a constant supporter throughout that process. It was one of those long public processes. There were brown bag lunches at SPUR. Numerous board members such as Teresa Rhea, Mike Wilmar, Red Kernan and others stayed involved throughout the process. Port staff could always count on Jim for supportive remarks at public hearings. He thanked him for everything he's done for the Port and the City and congratulated him on his retirement.

Byron Rhett, Deputy Director of Planning and Development, indicated that he's had two important opportunities to work with Jim Chappell with the Port and outside of that but he wanted to talk specifically about the Port experience. Monique had mentioned earlier that Jim was key in getting EDAW to participate in the intern program for Pier 70. Once Jim had convinced EDAW to partner with SPUR on that effort, they immediately came down to the Port to convince staff that we should also partner and participate, and we eventually did. It was a benefit for all of us. The Pier 70 plan that the Port Commission considered at a recent Commission meeting sprung from the work that the EDAW interns did. That was a really important wake-up call for us in terms of moving forward with the Pier 70 effort, and that came from SPUR and Jim's efforts.

Personally, he's had the opportunity in the last couple of years to be on the SPUR board. He's had the chance to see Jim in action and his efforts in creating the SPUR Center and dealing with, as Monique mentioned, the 70-member board with motivating them to all focus on, not just the fund raising for the SPUR Center, but the programming and the staffing and right down to the colors of the carpet. Jim has been instrumental in that entire effort and, hopefully, he will continue to work with the SPUR board,

maybe not in the same capacity, but in other capacities because we will need his guidance going forward.

Jonathan Stern, Planning and Development, indicated that as Byron mentioned, many of us have experienced working with Jim, both inside the Port or outside or before the Port. In his case, he first met Jim in 1993. They were colleagues at EDAW, before SPUR, before the Port. He wanted to tell everyone what a great colleague he was, even when they were both consultants and what a mentor he was. What passion he had both for the civic virtues that brought him to SPUR, but also teaching landscape architecture to many students through the UC extension. He doesn't know if that's one of the things Jim will continue to do in his retirement. There are many lucky students out there. He thanked him both here as Port staff and from years before.

Scott Preston, EDAW, indicated that they were very happy to be finagled, actually facilitated by Jim and others to take on the Pier 70 intern program. It was the exact sort of project they'd like to do with their intern program, and it produced the exact results they wanted to produce. It was a wonderful experience for him. Jim's legacy is more than just the physical transformations that he's made along the waterfront and around the city but the community that he's built. He can remember when he first moved to San Francisco, he wanted to get involved in the city. Someone told him to join SPUR and he became part of SPUR. Someone introduced him to Jim and, he doesn't know if it was because he was an EDAW guy or not, but Jim took him under his wing and showed him around. He always helped him meet new people and facilitated new opportunities. He just thought that Jim was a great guy and he's becoming a friend of his. He then realized it was part of his long-term strategy because Jim knows you can never say no to a friend. Jim's hallmark is all of us are Jim's friends. It's because Jim just brings this integrity and this honesty and this sincerity to everything he does, and how can you say no to that?

Dana Merker thanked Jim for his many years of allowing all of us in the design profession to be able to consider things beyond our normal selves. It's extraordinary to have a man of his intelligence and, particularly, his integrity leading our design community through so many issues. One of the things that he was most impressed by was last night's event at their new headquarters. The Piero Patri-endowed study for the Embarcadero was an example of the sorts of things that Jim do so well. Our great hats off to him and our great thanks. We'll miss him but he looks forward to working with him in the near future.

Commissioner Lazarus indicated she's enjoyed the many years of working with Jim. Monique did not overstate it when she said that he really is responsible for making SPUR a household name in a very positive way. The amount of integrity and credibility that SPUR has in the community that it's gained over this last decade is largely attributable to Jim's

leadership. She, too, very much admires a can-do person and he leads the list. She also admires his modesty because it was never about Jim; it was always about SPUR and about good public policy. We hope, in whatever ways he chooses, he will continue to be the model that he's been for all of us for all these years.

Commissioner Hardeman commented on the years that he's known Jim. The one thing that would describe him the best is he's a real progressive. Not like those phonies running around now who claim to be in the progressive group when they all want to do is stop and obstruct things. Jim took the lead, helped move San Francisco along, and he's done a remarkable job. He hopes he enjoys his retirement. He thanked him on behalf of the Building Trades Unions and for the working people of San Francisco.

Jim Chappell thanked the Commissioners, Director Monique Moyer, and all the speakers who spoke today. He's deeply honored by this award from the Port. Everyone in this room knows that the Port is both a tremendous opportunity and a tremendous challenge for San Francisco. He is so pleased that we have the Commission that we have today and the Executive Director we have today and the wonderful staff assembled because things are in good hands. Any small part he's been able to play in it, he's grateful for that opportunity. As for those people in the room with hair color like his know that at this stage in his life, it's a real privilege to be able to step back and think what he's going to do next in his next career. While he was at SPUR, he did not have the time nor would it have been proper to be spending time thinking about that, but he's now doing that and he has no idea what his next job will be except to say that he knows it will be something working for the good of San Francisco.

Commissioner Shakofsky thanked Jim and added that we have a few ideas for his spare time, too.

Monique Moyer advised not to have lunch with Brad. He'll be recruited before he gets to the first bite. On behalf of all of us at the Port, including the 200+ staff and 500+ tenants, Ms. Moyer thanked Jim for all that he has done for the Port. She knows that the future of the Port looks a lot brighter thanks to his work.

Commissioner Shakofsky announced that we are now taping the Port Commission meeting. This is our first taped meeting.

8. REAL ESTATE

A. Request approval of Amendment to the Fisherman's Wharf Street Performer Program to allow a three-month trial period for three exclusive use designated

performance locations (Locations 5, 7, and 12) for spray paint artist's performances. (Resolution No. 09-51)

The Commission Secretary announced that Item 8A was taken off the calendar.

B. Request approval of resolution rescinding Resolution No. 09-48 adopted by the Port Commission on September 8, 2009. (Resolution No. 09-52)

Commissioner Shakofsky announced that Item 8B has been pulled and will be brought back to the next Port Commission meeting.

C. Request authorization to award, subject to Board of Supervisors' approval, two (2) three-year leases for surface parking between the Port of San Francisco and Tower Valet Parking, Inc. Lease No. L-14750 for Bid Opportunity A: Seawall Lot 301 commonly known as the Triangle Parking Lot, and SWL 314 (Resolution No. 09-53); with Priority Parking-CA, LLC, Lease No. L-14747 for Bid Opportunity B: Seawall Lots 322-I, SWL 323, SWL 321 and SWL 324, all located in the Northern Waterfront. (Resolution No. 09-54)

The Commission Secretary announced that Resolution No. 09-53, proposed Lease No. L-14750 between the Port and Tower Valet Parking, Inc, for Bid Opportunity A: Seawall Lot 301 commonly known as the Triangle Parking Lot and SWL 314 has been taken off the calendar.

The Commission is being asked to award, subject to Board of Supervisors' approval, one three-year lease for surface parking between the Port and Priority Parking-CA, LLC, Lease No. L-14747 for Bid Opportunity B: Seawall Lots 322-I, SWL 323, SWL 321 and SWL 324, all located in the Northern Waterfront.

Jeff Bauer, Leasing Manager, indicated that on March 25, 2009, at the request of the Executive Director and as part of the Port's holdover lease project, the Port Commission authorized staff to offer one lease for surface parking in the Northern Waterfront, Opportunity B, consisting of Seawall Lot 322-I, 323, 321, and Seawall Lot 324. The successful bidder would be selected based on proposing the highest minimum monthly rent for the Opportunity and meeting the minimum qualifications for experience, financial standing, and the willingness to comply with all city ordinances including prevailing wage and the Displaced Workers Act.

On May 27, 2009, all bids were publicly opened and ranked according to the highest bidder. The initial first bidder subsequently withdrew its bid. Therefore, the highest qualified bidder for this Opportunity is Priority Parking California, LLC. In developing the bid offering, Port staff had several goals: To provide various parking options to the Port's diverse customer parking base, such as hourly, daily, and valet parking. The additional goals were to modernize each of the parking leases so it complies fully with all the city

ordinances, including the revenue capture equipment requirement under the City Charter and, finally, to provide the highest economic return to the Port of San Francisco.

In summary, under the new proposed lease, the Port will gain a substantial increase in the incremental revenue on the base rent. This represents approximately 40 percent over the existing lease. Port staff anticipates a corresponding increase in the percentage rent as well. This lease contains an expansion agreement which, at the Port's option, is subject to all the terms and conditions of the master lease.

Port staff recommends that the Port Commission approve the one three-year lease for surface parking in the Northern Waterfront between the Port of San Francisco and Priority Parking California, LLC, Lease No. 14747 and to authorize the Executive Director to forward said lease to the Board of Supervisors for approval and, upon such approval, execute the said lease.

Jeffrey Pollack, representing the Fisherman's Wharf Restaurant Association, the current tenants at the Triangle Parking Lot, indicated that during the last Commission meeting, he attempted to bring to the Commission's attention the Fisherman's Wharf Restaurant Association's concern that Commission President Rodney Fong had a conflict of interest rendering the Commission's issuance of an RFP void. Unfortunately, he was not allowed to complete his statement in that regard. Today, he once again come before the Commission because it is scheduled to vote on the approval of the Triangle Lease because Commission President participated in the Commission's vote to issue the original RFP even though he failed to comply with certain conflict of interest laws including Governmental Code 10-90. Because of that, they believe that the Commission's vote of the original RFP is void. Because the Commission's initial vote to issue an RFP is void, so too is any vote today to approve the award of a contract pursuant to that RFP. They believe the Fisherman's Wharf Restaurant Association should be permitted to continue to operate the Triangle Parking Lot as it has done for decades. The triangle parking lot is their support parking for the eleven participating restaurants, as is Pier 47 for Scoma's and the large lot abutting Pier 39 with its 600 spaces.

Joe Alioto indicated that his family has been at Fisherman's Wharf for approximately 85 years. His concern is on the parking lot. He hopes that the Commissioners have looked over the stats for that. The lot roughly takes in $1.6 million; $320,000 goes to the parking tax, $320,000 went to the Port and the rest went to the people that run it. Those people have run that lot for almost 20 years, and 50 percent of the parking spaces in there are validations. With the new proposal, the only way that someone could make it in that parking lot is: (1) definitely get rid of the validation; and (2) get rid of the employees that have been there. Some have been there over 20 years.

He asked the Port Commission for their support. His business has been there for a long time and he hopes that it will continue. Without the support parking,

though, it's going to be awful hard competing with everyone, even down here at the Market Place. Everyone has validation parking. The amount of money that the lot made, it's impossible for this man to get this lot and pay the Port $100,000 a month. It's impossible without firing the people behind him that have been there for about 20 years, and also to get rid of the validation. He hopes that the Port Commission take that into consideration before they vote.

Mark Gleason, Teamsters 665, representing those workers on the Triangle Lot, indicated that because Lease Bid A has been taken off the calendar today, they're not going to discuss everything that is their concern, but he wants to make a statement that, in recent days, they've been concerned about the ability for the workers to be retained. They hope that the Commission are concerned about those workers. There are ways that they can be retained under their current wages and benefits but there are some great concerns. He's hoping that everyone keeps an open mind and open ear on this issue.

ACTION: Commissioner Hardeman moved approval; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor. Resolution No. 09-54 was adopted.

9 PLANNING & DEVELOPMENT

A. Request approval to enter into a license without fee agreement with the United Humanitarian Mission organization to allow permanent installation of a commemorative plaque permanently installed adjacent to The Embarcadero Promenade at the Pier 7 wharf area, near Broadway Street. (Resolution No. 09-55)

Dan Hodapp, Planning and Development, indicated that the United Humanitarian Mission organization is proposing to install a bronze plaque honoring Russian seamen who helped fight the Great San Francisco Fire of 1863, a very interesting piece of San Francisco history. The plaque would be located on an existing concrete pedestal adjacent to the Embarcadero Promenade near the intersection of Broadway Street and near the outdoor dining area of the Waterfront Restaurant, by the glass structure. The concrete pedestal is about five feet square and about twenty inches tall.

The United Humanitarian Mission would enter into an agreement without fee with the Port to allow installation of the plaque. The United Humanitarian Mission would be required to indemnify the Port and be responsible for any liability associated with the plaque. The license would allow the Port to relocate the plaque or have it removed for any reason.

Dan Hodapp read the following amendments to the resolution: On the first "whereas" of Resolution No. 09-55, on the second line, the word "permanently," should be deleted. It should read: "The United Humanitarian Mission organization is proposing to install a bronze plaque honoring..." The

Resolved clauses should read: "Resolved, that this Commission hereby authorizes the Executive Director of the Port or her designee to enter into an agreement with the United Humanitarian Mission organization to install a bronze plaque honoring Russian marines to helped fight the Great San Francisco Fire of 1863, to be located adjacent to the Promenade in the Pier 7 wharf area, near the intersection of Broadway Street, and be it further" Resolved, that the agreement requires the United Humanitarian Mission to maintain and remove the plaque upon the Port's request, at no cost to the Port, and also describes other provisions necessary for the public to enjoy this sculpture."

Leonid Nakhodkin, President of the United Humanitarian Mission, indicated that twenty-one years ago, on September 22, 1988, he was released from the Soviet prison where he spent five years of his life as a political prisoner. Twenty years ago, he was completely liberated when he came to the United States from the Soviet Union as a refugee. Hanging on the wall of his apartment is John F. Kennedy's quotation: "Ask not what your country can do for you; ask what you can do for your country." He is very blessed that the Port will make it possible for him to install a bronze plaque in the area. This plaque will be one more historical site in our beautiful city. This plaque will symbolize friendship between the American and Russian people who helped each other many times in the world history. On October 23, 1863, Russian marines saved the lives of many city residents by suppressing the Great Fire of San Francisco. He thanked Mr. Don Hodapp for his advice during the process necessary to realize their project. He thanked Russian Consulate Vladimir Vinokurov for his support of their work.

Consul General Vladimir Vinokurov thanked the Port Commission for agreeing to consider this resolution, which is an honor to his country, to the Russian community in San Francisco and California. The installation of the bronze plaque in honor of Russian sailors will be a reminder that our relations are not limited only to the Cold War, but there was a period in our history when our countries were friends and allies. It's also a contribution to the efforts of our leaders at the time to initiate a new beginning in our relation to forge strong a partnership within our countries. He appreciates the Commission's attention and support for this matter.

Ernestine Weiss congratulated Leonid Nakhodkin for his wonderful efforts to put a plaque up for the Russian people. It's well deserved. This is a historical marker and this is what we should have on the Port. We have a lot of history here that has gone unspoken, and it's time that we noted all these things. While on the subject of plaques, Ms. Weiss hopes that one of these days the Port will take the opportunity to support her donor who wants to give her a plaque for Ferry Park and for supporting the Port. If it wasn't for her advice to Willie Brown to develop the Port after she put him in office, all of this development would not have taken place. She'd appreciate if the Port Commission keeps that in mind.

Commissioner Hardeman commented that this seems like a simple project, but he commended Dan Hodapp and Monique Moyer for working with Leonid to get this done. It is more difficult to get a plaque or a monument done on Port property than people think. He congratulated them for a job well done.

ACTION: Commissioner Hardeman moved approval; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor. Resolution No. 09-55 was adopted.

B. Informational presentation regarding San Francisco Municipal Transportation Agency's Bike Plan as it relates to Port property. (VERBAL REPORT)

David Beaupre, Planning and Development, introduced MTA staff, Timothy Papandreou, the deputy director of planning for MTA. He will present an overview of the city's bike plan and how the projects are impacted on Port property.

In 2006, the Port Commission approved the bike lanes for both Illinois Street and Cargo Way as a temporary two-year pilot project. The reason that it was temporary was that we wanted to assess the impacts on how it would work on Illinois Street regarding the safety of bicyclists, as well as the impacts it may have on the industrial operations of both Illinois Street and Cargo Way.

Shortly after that approval in 2006, there was a lawsuit filed against the city, against the bicycle plan. The court issued a stay so all bike improvements within the city have been halted. The city has completed its bicycle plan and environmental review and it is now waiting for the court to overturn the injunction so that it can begin to make the improvements.

Timothy Papandreou, acting deputy director for planning at the San Francisco Municipal Transportation Agency, indicated that he'd like to present to the Port Commission what they've been working on in the last three years i.e. the bicycle plan for San Francisco. As background information, sustainable transportation in San Francisco started in 1973 when the city adopted the Transit First policy, which was emphasizing the need to prioritize transit riders, bicyclists, and pedestrians over the private automobile.

Since then, there have been many various updates, and it's been institutionalized in a lot of the city departments in terms of their thinking on how to use space on the street. It's still contentious when it comes to things like removing parking and narrowing down roads and taking out a travel lane, but they believe that these things are naturally par for the course when it comes to dramatically changing the public realm.

Since then, the city had adopted a bicycle plan in 1997. As part of the ongoing efforts with our climate action plan, which is near and dear to the Port's heart in terms of the sea level rise, etc. one of the most strategic pieces of infrastructure that we can do is to reduce automobile travel through

reduction in VMT (vehicle miles traveled). One of the key components of that strategy is a whole package of travel demand management programs where bicycling is fairly integral to that linkage of reducing the need to drive and giving people alternatives to the automobile. As we can see outside our front door, there are hundreds and hundreds of cyclists who utilize the Embarcadero and, hopefully, in the near future, they'll have the Embarcadero.

The 2009 Bicycle Plan went to the MTA Board in June. It was approved and, in August, it went to the Board of Supervisors, who adopted the plan and all the different changes. It means that we're adding to the existing 45 miles of bike lanes in the city and the 23 miles of sharrows. Sharrows are double chevron symbols that were adopted and invented in San Francisco. The City is considered a national and international leader for starting that symbol. It means that this is a safe place for a bicyclist to navigate on the street and to watch out for cars opening doors, etc.

In the existing bicycle route, we have about 45 miles of bike lanes and about 23 miles of sharrows. In the bike plan that was adopted, there will be almost 80 miles of bike lanes and about 100 miles of sharrows. This closes some critical gaps in the bicycle network. A lot of the research that we've experienced and done worldwide suggests that, if you do not have a complete network, you shouldn't expect people to ride bicycles and vice versa. Imagine a road that stopped every three or four blocks and there's just no more road space. You really wouldn't drive because it just doesn't make sense. We want to create a connected and cohesive bicycle transportation network.

As we've been under the court injunction, where we were enjoined and were not able to provide any facilities, bicycling has been growing at a tremendous rate in San Francisco. In the last three years, we haven't done any improvements because we haven't been allowed to under the injunction. Bicycling has increased about 43% since 2006, which is significant for a city of our small size and to use some expert data not being shown here, it's about 130,000 daily trips by bicycle, about 700,000 by Muni Transit, so that's a significant increase in a carbon-neutral transportation mode that we strongly support and encourage.

They've done various samples across the city. They've found that about 75-80% of the people who have been surveyed say that they would ride bicycles more if they felt it was safe. One of the key determinants was is it safe if there are facilities on the street for them to use. A lot of our riders have been traditionally the younger population or the Spandex, superclass bicyclists, We're broadening it out now to families and senior citizens, tourists, people who are not very familiar with bicycling. Navigating the street can be quite tough sometimes. The more that we can do to make that safer and easier for them, the more we'll have a better chance of getting many people out there.

We have developed a citizen's guide to the bicycle plan, just to educate our stakeholders on what they should be expecting in the process. It took about

three years but it was well worth the effort because we've raised the profile of bicycling.

There were eight key goals in the Bicycle Plan with the overall goal to increase safe bicycle use. The goals capture what he just mentioned about completing the bicycle network, ensuring plentiful high quality bicycle parking because a lot of the issues people have when they're riding their bicycle is where to drop it off when they're done with their trip. They don't want to tie it up to something that may not be there when they get back. He just had his bike stolen last week which is one of those things you have to deal with when you have a bicycle.

Expanding access to transit and bridges is a critical piece in terms of the regional infrastructure. Educating the public about bicycle safety as the safety as a bicyclist, when you're riding a bicycle, versus the safety as a pedestrian when you're confronted with bicycles. There's a different viewpoint. They want to make sure that everybody understands that bicyclists have roles and responsibilities and it's part of the overall safety program. Increasing bicycle safety through targeted enforcement, making sure that motorists comply as well, that they are not cutting bicyclists off. They're not parking into bike lanes and forcing bicyclists to get around them and be confronted with traffic. There are all these issues that we can make sure we're constantly keeping up with everybody. We need to adopt more bicycle-friendly practices and policies in our everyday business.

Without any money, we can't do anything, so we have to prioritize bicycle funding and make sure that we are not only setting the stage for sustainable mobility in terms of getting this priority of funding but, when we do get new categories of the funds that we're looking at both in the local and regional level, bicycle prioritization is held up as one of the key cost-effective measures that we can do in terms of transportation.

He showed a picture of a typical cross-section of how to accommodate bicycles in the existing rights of way. Where there is a bus-only facility, we would put the bicycles to the outside of the lanes. When there is a lane removal, for example, we would put the bicycles adjacent to the parking lane.

He showed pictures to give the Port Commission an idea of how to accommodate bicyclists on the existing right of way. What's not showing is the bicyclists can be accommodated on a shared path or a dedicated path that is off the road, but that wasn't in the purview of this plan this time around.

In terms of the bicycle plan implementation, we went to the MTA Board with approximately 60 near-term projects that were identified in the Bicycle Plan. Four projects had already been implemented and 45 projects were before them to be legislated. There are eleven projects that aren't ready to be legislated so they'll be legislated at a later date.

As part of the implementation, they are also including bike lane installation and sharrow installation, but also bicycle parking installation and signage. Signage is critical for a bicyclist in terms of getting around. Knowing that there's a connection when you go in the corner to another facility is critical.

The projects in the Port's jurisdiction are the Illinois Street project and Cargo Way. The Illinois Street project was approved by the Board, and Cargo Way was not yet approved. They will be going back to the Board as they develop this project further with the concurrence of their key stakeholders.

The projects at Howard Street, Townsend Street and 16th Street basically touch Port property. The entire project is only a small segment in the Port area, but they would like to make sure that they get both jurisdictions approved so that they can complete those projects in a timely manner.

The Howard Street Project in the Embarcadero to Fremont segment would establish a westbound bicycle lane. It would remove one eastbound travel lane from Fremont to Stewart Streets, and this would be implemented after the Transit Terminal is completed, so it's not an immediate project, but it will be coming online with the Trans Bay Center. That's one of the areas where they're proposing to do some street changes to make this work.

On Townsend Street, from 8th to Embarcadero, they would be establishing bicycle lanes in both directions from 8th to 2nd Street. They would be installing sharrows in both directions from 2nd Street to the Embarcadero. They consider this project ready to go, so they could be implement it as early as next year. They have to wait until the injunction is lifted first before they can do anything, but this would be one of the projects that can be done fairly straight away. He showed a diagram of where the facilities will be going, and there will be no loss in parking.

On the 16th Street project from 3rd Street to Terry Francois, this segment would be basically part of the new street that's in Mission Bay. Construction is expected around 2012 to 2014, and they're proposing, as part of a sustainable street package, parking, bicycle lanes and one traffic lane in both directions.

On the Illinois Street project, they would be establishing bike lanes in both directions and there would be some parking removal.

On Cargo Way, from 3rd Street to Jennings, they would establish bicycle lanes in both directions. They would prohibit parking on the south side of the street.

Mr. Papandreou introduced Damon Curtis, MTA's transportation implementation manager for the bicycle plan.

Andy Thornley, San Francisco Bicycle Coalition, emphasized some of the points that Mr. Papandreou made, i.e. bicycling these days in San Francisco is not an ornamental fun thing. It's fun and it's healthy but it's a big part of how we do business in San Francisco. It's how employees get to work. It's how customers come and shop and eat. Embarcadero is carrying a huge amount of traffic for people having fun, but also spending money and reporting for work. The Port is the stewards and custodians of a lot of the bike network. San Francisco's official Bike Route 5 runs basically along the waterfront, down the Embarcadero and goes down Terry Francois, Illinois, and Cargo Way. That's also the Bay Trail, which the Port is fortunate to help keep and enhance. Growing the bike network is a part of the business of the Port. They are very pleased to be partners with the city, with public agencies and with other communities to help nurture bicycling as an everyday form of transportation. They're very eager to see the Cargo Way project come back to the Port. Mr. Beaupre indicated that the Port Commission already gave approval of this project on a trial basis. Presumably, it'll come back to the Port Commission before implementation. There is a design that the Redevelopment Agency, along with Livable City and other partners, developed for an off-road bike path as one of the options for how to put bike traffic on Cargo Way, rather than just simple bike lanes, which was what was already approved. At last night at SPUR, there was a presentation regarding the possible future of Embarcadero, taking a bike way off of Herb Caen Way into the street and giving a dedicated right of way. They have an opportunity to do something like that on Cargo Way. He looks forward to hearing that presentation when it comes back to the Commission. This is a very central part of life here. It's a big part of the business of the Port. They're very pleased with the relationship that they've had with Port staff over the many years in developing this plan, as well as MTA staff and others. They look forward to a continuing wonderful relationship, and they're very eager to get that injunction lifted and start putting some paint down.

Commissioner Lazarus commented that there's some conversation about a system that some European capitals have of essentially having free bikes i.e. putting a certain amount of money in and then pick up a bike.

Mr. Papandreou indicated that it's called bike sharing.

Commissioner Lazarus indicated that if that continues to progress, she hopes that the Port would be a site for some of the pick ups/drop offs for the bikes.

Mr. Papandreou replied affirmatively and added that they are very supportive of growing a bike sharing program in San Francisco but they have to get the injunction lifted first.

Ms. Moyer commented that we were looking at the Ferry Building as the ideal location and then, unfortunately, we had to stop our efforts because of the injunction.

Commissioner Hardeman asked Mr. Papandreou if he's ever been to Copenhagen because it's a bike heaven. He's heard that they have more bikes than people because they don't have to pay anything. They just grab a bike and go and drop it off where they want. Mr. Papandreou replied that he'd like to have their success problem of too many bicyclists.

Commissioner Shakofsky thanked Mr. Papandreou for the update.

10. ENGINEERING

A. Informational presentation on the Port's Americans with Disabilities Act (ADA) Self-Evaluation and Transition Plan.

Wendy Proctor, Port's Architect and ADA coordinator, provided the Port Commission an update on the Port's ADA Title II Self-Evaluation and Transition Plan that was adopted by the Port Commission in April 2004. The Americans with Disabilities Act, also known as the ADA, provides comprehensive civil right protections to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

The Port of San Francisco is defined as a Title II entity in the ADA, which covers accessibility obligations to state and local governments. As accessibility improvements cannot happen overnight, the ADA requires a government entity to provide an ADA Self-Evaluation and Transition Plan.

As the name implies its intent, the document provides a self-evaluation of the programs, services, and activities provided by the Port, and the transition plan identifies the physical barriers and these are prioritized in their removal, and it also established a timeline for completing the removal of all these barriers.

The transition plan is an ongoing effort. Projects identified in the transition plan are evaluated each year based on priorities, other concurrent projects, and available funding. The Port has a capital project fund dedicated to making progress on transition plan projects.

Each fiscal year, the fund receives additional partial funding for barrier removal projects. The Port of San Francisco has made significant improvements to accessibility through both large and small construction projects since and before 2004.

The Loma Prieta earthquake and the Port's Waterfront Land Use Plan have provided the Port with a great opportunity to improve accessibility. For the purposes of this informational update, Ms. Proctor shared with the Commission the advances that have occurred since 2004 when the current transition plan was adopted such as the current active projects and planned future projects.

A tangible method for measuring barrier removal and accessibility improvement is through the costs associated with construction projects. Some projects enhance accessibility as a portion of the work and the amount is simply a percentage of the total project costs. Other projects are specifically for accessibility upgrades, which are direct costs. The amounts listed in the update are a combination of these costs and the costs for some of the future projects are still unknown.

In summary, the amount of funds allocated towards accessibility improvements from completed projects since 2004 is approximately $56,304,673. The amount allocated for current active projects that are either in design development or construction total $11,959,876. The amount for projects identified in the transition plan and other improvement projects that will further advance accessibility plan to occur, hopefully by 2015, both funded or unfunded, is approximately $16,350,266.

Commissioner Lazarus commented that she's astonished at the number. Ms. Proctor indicated that there's still a long way to go, but a great amount of work has been done so far.

B. Request authorization to award Construction Contract No. 2721, 401 Terry Francois Boulevard Americans with Disabilities (ADA) Upgrades Project to Gold Spring Construction Corporation in an amount not to exceed $297,600. (Resolution No. 09-57)

Wendy Proctor, Port Architect and ADA coordinator, requested Commission's authorization to award Construction Contract No. 2721, for the 401 Terry Francois Boulevard Americans with Disabilities Act ADA Upgrades Project to Gold Spring Construction Corporation, the lowest responsible bidder.

On June 9, 2009, the Port Commission authorized Port staff to advertise the bids for this project. On August 25, 2009, Port staff received eleven bids for this project. Port engineering staff have reviewed the bids and determined that Gold Spring Construction is the lowest responsive and responsible bidder and the Human Rights Commission staff had recommended a Local Business Enterprise (LBE) subcontracting goal of 20% for this contract, and Gold Spring's bid includes LBE subcontractor participation of 23.3%, exceeding that goal.

Port staff recommends that the Port Commission authorize the award of Construction Contract 2721 for 401 Terry Francois Boulevard ADA Upgrades Project to Gold Spring Corporation, the lowest responsive and responsible bidder in a not-to-exceed amount of $297,600 and to also authorize staff to increase the contract amount by 10% or $29,760 through contract modification or change order for a total of $327,360 in the event of unanticipated contingencies. Staff also recommends that the Port Commission authorize the Executive Director to accept the work once it's complete.

ACTION: Commissioner Lazarus moved approval; Commissioner Hardeman seconded the motion. All of the Commissioners were in favor. Resolution No. 09-57 was adopted.

C. Request authorization to advertise for competitive bids for the Pier 45 Drainage Improvements Project, Contract 2719. (Resolution No. 09-58)

John Mundy, Engineering Division, indicated that the Commission is familiar with the Pier 45 Drainage Improvements Project. This is a project originally granted through the State, Proposition 40 Clean Beaches Funds, to clean up some infrastructure in the vicinity of the Pier 45 fish processing facility and, hopefully, yield water quality impacts in the adjacent Aquatic Park beach.

The Port had transitioned the funding for that work from the State grant funds to EPA Federal stimulus funds this spring. Port staff put the project out to bid. At that time, Port staff were still coordinating with the State of California and the Federal Environmental Protection Agency what some of the requirements would be specifically for the EPA contract. Port staff made a mistake regarding what the disadvantaged business enterprise participation requirements needed to be. Once again, Port staff put the project out to bid in June 2009. In late June, staff received word from the EPA and from the State that the requirements that we thought were to be 13% participation in fact were required to be closer to 30% participation.

Staff had to re-issue the RFP or the bid for construction under these new requirements. The Commission may have heard that there are sea lions at Hyde Street Harbor. One of the reasons that we were looking to do these improvements was to keep fish wastes out of the Pier 45 Harbor because it was attractive to sea lions and birds. He spoke with the National Oceanic and Atmospheric Administration earlier this week about what sort of measures we might take to get the seals out of the harbor. When he mentioned that we are doing these improvements to hopefully get fish waste out of the harbor, NOAA indicated that's exactly what they want to see done. That's another reason why we want to do this project i.e. make Fisherman's Wharf Harbor a less attractive place for sea lions.

This project was originally estimated to be $1.8 million. Since a number of years have passed since the grant was awarded, there has been a little bit of escalation. The engineer's cost estimate is $1.76 million, plus a 10% contingency. We've identified funding in the Port Storm Water Management Program to supplement whatever funding we have from the grant.

We have a total of $1.9 million available for construction. A portion of that has been allocated to the Taylor Street Improvements Project. Another change from this project since it was last presented to the Commission was that the Taylor Street portion of a force main that connects the Pier 45 drainage improvements to the city sewer at Jefferson Street was carved out of this

project and given to Department of Public Works to do. The reason we're doing that is we have a critical path for construction in the vicinity of the Taylor Street restaurants as presented by Port staff at last month's Commission meeting. Because we've had to re-bid the Pier 45 project, that Taylor Street work sort of fell out of the queue and it would have pushed the rest of the Taylor Street project so far behind that it would have gotten in the way of the peak season of the restaurants along Taylor Street.

In order to pull the project schedule back and to get the work on Taylor Street done in a manner that didn't interfere with peak season, we've taken a little bit of the Pier 45 project and appended it to the Taylor Street project. That work has been awarded. That work is going to start and we're going to add on the work that's being done for this bid that the Commission is considering today.

ACTION: Commissioner Hardeman moved approval; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor. Resolution No. 09-55 was adopted.

11. MARITIME

A. Request authorization to submit to the Foreign Trade Zone Board an application for Alternative Site Framework Modification No. 1 of Foreign Trade Zone No. 3 for General Zone administrative self-management, improved integration with the City's Office of Workforce and Economic Development, and maintenance of Subzones 3B and 3C as well as on- and off-San Francisco International Airport, common-user, Fuel Storage and Delivery Systems and Facilities. (Resolution No. 09-56)

Peter Dailey, Deputy Director of Maritime, indicated that Foreign Trade Zone was a concept born out of the Depression in the early 1930s. There were areas designated by Congress to facilitate international trade. The Port received a Foreign Trade Zone grant from the U. S. Congress in 1948 to operate and to maintain the Foreign Trade Zone grant for the City and County of San Francisco. In the 1930s and 1940s, foreign trade was a relatively rare occurrence. There was trade but it was not as prevalent as it is now. Specific zones are needed to do international trade. Foreign Trade Zones essentially allow the operator to manipulate cargo and to defer duty and customs fees on different types of cargo. The best description of a Foreign Trade Zone today is Target Stores or Macy's or any of the department stores. Everything in those stores are generally imported, and foreign trade has a whole new meaning today than it did in 1934.

Specific to the Port, we hold the grant that Congress bestowed upon the City and County of San Francisco. The Port has the control of it for the entire City and County of San Francisco, not just for our waterfront.

The Port went through development possibilities with a developer in 1998 that was going to result in an updated virtual Foreign Trade Zone at Piers 19 and

23. There was going to be office development and warehouses that were going to be built. Unfortunately, that arrangement did not come to fruition due to the dot-com office bust. We entered into a subsequent five-year operating agreement as a warehouse Foreign Trade Zone with a successor company from the developer. Unfortunately, at the end of last year, that lease expired and was not renewed by the Port due to significant lease deficiencies and non-performance measures.

Port staff briefed the Port Commission earlier in the year that the Port was going to analyze new operating scenarios and take a new look at the Foreign Trade Zone concept. We've hired a consultant to provide some recommendations.

A Foreign Trade Zone designation is an economic tool, like the use of a tax credit or payroll tax exemption or a number of different economic things that the city can use to attract businesses. It's not necessarily a brick and mortar location. We have some technical things to do with the old company leaving San Francisco. We need to submit an alternative site framework modification to the Foreign Trade Zone Board that allows the Port to take back control of the operation of the Foreign Trade Zone.

In 1998, when the Port entered the operating agreement with the developer, we allowed them to become the agent for the Port and for the City and County to provide marketing of this grant. We want to take that control back. We need to formally suspend Foreign Trade Zone, the general zone that was operated by Big Sea Traders and subsequent companies.

We have agreements in place with Chevron USA in Richmond, CA, a subzone that the Port entered into a decade ago for handling of petrochemicals and oil. There's a mechanism in place for a general zone exemption at SFO currently for use of jet fuel. You can bring in jet fuel and manipulate it, and the airlines and the airports utilize the Foreign Trade Zone designation that the Port controls to lower their fuel costs.

We need to apply to the Foreign Trade Zone Board for this new control, taking back control of the Foreign Trade Zone grant and, more importantly, we need to re-emphasize and re-market the Foreign Trade Zone concept to the City and County of San Francisco.

The Foreign Trade Zone the Port manages touches Contra Costa County and San Mateo at the airport. This is bigger than just San Francisco's seven and a half miles. We are going to market this closely with the Mayor's Office of Economic and Workforce Development to use as a tool to attract new companies to San Francisco.

Ultimately, we would like to have an operator come back to the Port and to operate a brick and mortar facility on Port property. We understand the realization that, when the Foreign Trade Zone closed on Piers 19/23, that

people lost their jobs and we were cognizant of that fact. This is the necessary first step to re-imagine the Foreign Trade Zone concept, re-market the Foreign Trade Zone on a more regional basis that we believe will result in more economic benefit for the City and County as well as the Port.

ACTION: Commissioner Lazarus moved approval; Commissioner Hardeman seconded the motion.

For the record, Peter Dailey read the following amendments to the resolution. The following three Whereas clauses were added to the resolution:

"Whereas, Port staff desires to submit a modification to the Port's grant of authority for operation of Foreign Trade Zone to the Foreign Trade Zone Board in Washington, D.C. to clarify its more direct management of Foreign Trade Zone 3 activities; and

Whereas, Port staff will work in conjunction with other City and County agencies involved in economic development and international trade to seek foreign trade zone status for companies that identify need or potential; and

Whereas, the Foreign Trade Zone Board now provides Grantees a simplified method to make operational and administrative changes in their Foreign Trade Zone program by submitting an "Alternative Site Framework Modification; now, therefore be it..."

Carey Dall, ILWU Local 6, indicated that their union represented the workers at Pier 23 who lost their jobs. They are heartened to see in the fifth whereas that there was some verbiage given to the fact that all was not well at Pier 23. First and foremost, in their experience, the former employer was basically using the facility as an opportunity to make profit through real estate deals, as opposed to using the facility in the logistics method that they are hoping to get membership out to work. Secondly, they would like to get some clarity on this issue. Mr. Dall asked if this is the proper place to discuss labor standards and potentially card check neutrality if there were to be brick and mortar free trade zone. He asked if this is something that will discussed down the line.

Cesar Garibay, ILWU Local 6, worked for the Foreign Trade Zone when it was in Piers 19 and 23. He's speaking on behalf of what he's witnessed while working there. The employer at that time was just letting low-ball employers go in there, not taking into consideration their health care or anything else. He suggested that a master employer would be better because if different tenants come in, there's no way of knowing what it is they're going to do and whether a master employer is liable. They have to be responsible to make sure the employees are paid correct wages and receive health-care benefits.

John McKenna indicated that he agrees with the last two speakers' comments. The individual who was running the Foreign Trade Zone was just trying to milk it for all he could. He did not market the foreign trace zone. He

did not do anything to develop or create any new business. He used it as the lowest common denominator, grabbed every dollar he could. He did virtually no maintenance on it. He currently represents a group of people, Pacific Bay Traders, who were willing to take over the Foreign Trade Zone at Piers 19 to 23, take advantage of the million plus that was spent to get an HVAC approval. There's a blueprint; a phenomenally beautiful building. It could become a focal point for international trade. It has the possibility. It could still be developed. He hopes the Commission looks at that, rather than locating it somewhere else. The magnet that will draw the people is location, location. They're looking at people from Shanghai and Beijing who want to have office space here and would like to be represented by a Foreign Trade Zone. He approached the Port but was denied. Port staff told him that they would open it up further and maybe put out an RFP. He sincerely hopes that the Port does not totally get rid of the idea of having a private, for-profit group of people come in because he did not see anywhere in the report a budget or any program to market this. If you walk down the street in San Francisco, and he's talked to some pretty shabby business people in the city even at the Olympic Club, and talk to them about Foreign Trade Zone, they don't have a clue. All these benefits that are enumerated here are real. It needs to be developed. It needs to be exploited. It needs to be marketed. He doesn't see the Port having the staff and/or the budget required to do it. He hopes the Port Commission keep that open for consideration for a group like Pacific Bay Traders to come in and go forward and have this become what it should be, a doorway to the East.

ACTION: Commissioner Hardeman moved approval of the amended resolution; Commissioner Lazarus seconded the motion. Resolution No. 09-56, as amended, was adopted.

12. NEW BUSINESS / AGENDA SETTING

Executive Director Monique Moyer thanked Vice President Shakofsky for chairing the meeting today on such a short notice. She hopes that Commissioner Fong's jury duty, although not looking good right now, doesn't last forever. It looks like a three-week trial. The next meeting is October 13, 2009 and we have a variety of information and action items that will be brought to the Commission. In October, staff will be seeking Port Commission's approval of the revenue bonds. Port staff will be meeting with the rating agencies the first week of October. Hopefully, by our November meeting, we will have good news to report on the Port's credit rating.

13. PUBLIC COMMENT

Commissioner Hardeman commented that he hopes that it will be a successful Fleet Week.

Ms. Moyer replied that she hopes that it will be too. There are a lot of planned events including the christening of a new tugboat by Bay and Delta as well as a ceremony honoring Fred Henning.

Corinne Woods thanked the Port for their help during Coastal Clean-Up Day on September 19, 2009, particularly Tom Carter, who put out a net and whisk away the debris from Islais Creek.

14. COMMUNICATIONS

15. ADJOURNMENT

ACTION: Commissioner Hardeman moved approval; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor.

Commission Vice President Stephanie Shakofsky adjourned the meeting at 5:00 p.m.

SAN FRANCISCO PORT COMMISSION

Rodney Fong, President
Stephanie Shakofsky, Vice President
Kimberly Brandon, Commissioner
Michael Hardeman, Commissioner
Ann Lazarus, Commissioner

Monique Moyer, Executive Director
Phone: 415-274-0400; Fax: 415-274-0412

Amy Quesada, Commission Secretary
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AGENDA
TUESDAY, OCTOBER 13, 2009
2:30 P.M. CLOSED SESSION
3:15 P.M. OPEN SESSION
PORT COMMISSION HEARING ROOM, SECOND FLOOR
FERRY BUILDING, SAN FRANCISCO, CA 94111

PLEASE NOTE THE TIME OF THE MEETING

The Port Commission Agenda as well as Staff Reports/Explanatory Documents available to the public and provided to the Commission are posted on the Port's Website at www.sfport.com. The agenda packet is also available at the Pier 1 Reception Desk.

If any materials related to an item on this agenda have been distributed to the Port Commission after distribution of the agenda packet, those materials are available for public inspection at the Port Commission Secretary's office located at Pier 1 during normal office hours.

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1. **CALL TO ORDER / ROLL CALL**
2. **APPROVAL OF MINUTES** - September 22, 2009
3. **PUBLIC COMMENT ON EXECUTIVE SESSION**
4. **EXECUTIVE SESSION**

   A. Vote on whether to hold closed session to confer with Legal Counsel and Real Property Negotiator.

      (1) CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING AND ANTICIPATED LITIGATION MATTERS (DISCUSSION & ACTION ITEMS)

         a. Discuss anticipated litigation matter pursuant to Section

A10132009

54956.9(b)(1) of the California Government Code and Section 67.10(d) of the San Francisco Administrative Code. (Discussion and Action Item)

Number of potential cases: 1 As Defendant

5. RECONVENE IN OPEN SESSION

A. Possible report on actions taken in closed session pursuant to Government Code Section 54957.1 and San Francisco Administrative Code Section 67.12.

B. Vote in open session on whether to disclose any or all executive session discussions pursuant to Government Code Section 54957.1 and San Francisco Administrative Code Section 67.12.

6. ANNOUNCEMENTS

A. **Announcement of Prohibition of Sound Producing Devices During the Meeting**

Please be advised that the ringing of and use of cell phones, pagers, and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic device.

B. **Announcement of Time Allotment For Public Comments**

Please be advised that a member of the public has up to three minutes to make pertinent public comments on each agenda item unless the Port Commission adopts a shorter period on any item.

7. EXECUTIVE

A. Executive Director's Report

- Fleet Week – October 9-12, 2009
- The Great California Shake Out & 20th Anniversary of the Loma Prieta Earthquake – October 15, 2009 at 10:15 a.m.
- Board of Supervisors Hearing on Concrete Batching Asphalt Plant at Seawall Lot 352 – October 5, 2009
- Second Community Meeting with Interested Parties regarding Darling International's proposed biodiesel project on Amador Street (SWL 344) – October 14, 2009
- Water Bar Oyster Fest 2009 – October 15-17, 2009

8. FINANCE AND ADMINISTRATION

A. Request approval of: (1) the issuance of the Port of San Francisco's 2009 Revenue Bonds to fund certain improvements on Port property, in the aggregate principal amount not to exceed forty five million dollars ($45,000,000) with an interest rate not to exceed twelve percent per annum; (2) the forms of Indenture of Trust and the First Supplement to the Indenture of Trust, each between the Port and a trustee; (3) the sale of the Bonds by negotiated sale pursuant to a purchase contract; (4) the form of a bond purchase contract between the Port and Jefferies and Company, Inc.; (5) the preliminary form of the Official Statement relating to the Bonds and the distribution of the statement; and (6) the form of the Continuing Disclosure Certificate of the Port and the execution of the certificate. (Resolution No. 09-63)

B. Request approval to appropriate $33,328,779 in 2009 Port Revenue Bonds to fund Piers 19 or 23, Pier 35, Pier 33, Pier 27, Pier 50, and Backlands project costs. (Resolution No. 09-64)

9. PLANNING & DEVELOPMENT

A. Request approval for the Port's Executive Director or her designee to revise provisions of the proposed Lease No. L-14711 with the Exploratorium, a California not-for-profit corporation, at Pier 15 and a portion of Pier 17 for a term of 66 years (located on the Embarcadero at Green Street), relating to the removal of off-site bay fill as required by the San Francisco Bay Conservation and Development Commission *San Francisco Waterfront Special Area Plan*. (Resolution No. 09-62)

10. ENGINEERING

A. Informational report on San Francisco Stormwater Design Guidelines and Proposed Stormwater Ordinance.

B. Request approval to rescind Resolution No. 09-35 adopted by the Port Commission on July 14, 2009 (Resolution No. 09-59); and Ratify Prior Issuance of Request for Proposals Soliciting Marine Structural and Civil Engineering Services for the Pier 43 Bay Trail Link Project (Resolution No. 09-60)

C. Request approval to award contract to Gerwick-SDE JV for design and engineering services for the Pier 43 Bay Trail Link Project in the amount not to exceed $728,300 plus a ten percent contingency amount of $72,830, for future change orders or contract modifications. (Resolution No. 09-61)

11. REAL ESTATE

A. Request approval of resolution rescinding Resolution No. 09-48 adopted by the Port Commission on September 8, 2009 authorizing the award of separate leases for surface parking to: (1) Tower Valet Parking, Inc. for premises at Seawall Lot 301 (bounded by Taylor Street, Jefferson Street, and Powell Street) commonly known as the Triangle Parking Lot, and Seawall Lot 314 (bounded by the Embarcadero, Bay Street, and Kearny Street); and (2) Priority Parking-CA, LLC for premises at Seawall Lot 322-1(bounded by Front Street and Broadway) Seawall Lot 323 (bounded by Davis Street and the Embarcadero), Seawall Lot 321 (bounded by Front Street, Green Street and the Embarcadero), and Seawall Lot 324 (bounded by Davis Street, Front Street, and the Embarcadero). (Resolution No. 09-52)

B. Request authorization to offer through competitive bid a three-year lease for surface parking at Seawall Lot 301 commonly known as the Triangle Parking Lot, bounded by Taylor Street, Jefferson Street, and Powell Street and SWL 314 bounded by the Embarcadero, Bay Street, and Kearny Street (Resolution No. 09-66)

C. Request approval of waiver of Port fees for the Memorial Service for Donald Fisher at Pier 30/32 to be held on Friday, October 23, 2009, sponsored by Mayor Gavin Newsom, the family of Donald Fisher and Gap, Inc. (Resolution No. 09-65)

12. NEW BUSINESS

13. PUBLIC COMMENT

Public comment is permitted on any matter within Port jurisdiction and is not limited to agenda items. Public comment on non-agenda items may be raised during New Business/Public Comment. A member of the public has up to three minutes to make pertinent public comments before action is taken on any agenda item and during the new business/public comment period. It is strongly recommended that public comments be submitted in writing so they can be distributed to the Commissioners for their review. Please fill out a speaker card and hand it to the Commission Secretary. If you have any question regarding the agenda, please contact the Commission Secretary at 274-0406.

14. ADJOURNMENT

FORWARD CALENDAR (Targeted Commission meeting, subject to change)

- Informational Presentation regarding the Northeast Embarcadero Study (October 27, 2009)
- Request approval of award of contract to a Cruise Terminal Design Consultant for Architectural and Engineering Services for the Pier 27 Cruise Ship Terminal (October 27, 2009)
- Request approval to amend a contract with Forell/Elsessler Engineers, Inc. to implement Phases 2 & 3 of contract previously awarded under Resolution No. 07-65 for Pier 35 Substructure Repairs; increasing the contract amount by $550,000 and extending the contract term up to three additional years (October 27, 2009)
- Request approval of the Stormwater Design Guidelines and Stormwater Ordinance (October 27, 2009)
- Informational presentation regarding proposed water taxi service at the Port of San Francisco (November 10, 2009)
- Informational presentation of an outline for a possible Waterfront Arts Program, located at several sites along the entire length of the waterfront (November 10, 2009)
- Accept report on Contracting Activity Report - Fiscal Year 2009/10 for the 1st Quarter Period July 1, 2009 - September 30, 2009 (November 10, 2009)
- Request approval of First Amendment to Lease No. L-14282 with the San Francisco Bar Pilots Benevolent and Protection Association at Pier 9 (November 10, 2009)
- Request authorization to award Contract No. 2735, Security Lighting Project at Pier 80 (November 10, 2009)
- Request authorization to award Pier 45 drainage improvements project (November 10, 2009)
- Informational Presentation on the revisions to the Port's Building Code (December 8, 2009)
- Request authorization to enter into an Exclusive Negotiation Agreement with Seawall Lot 337 Associates, LLC to explore a mixed-use development project at SWL 337 and Pier 48 (Date to be Determined)
- Request approval of the Port's Interim Leasing Policy for Historic Structures (Date to be determined)
- Informational presentation on development opportunities for Seawall Lot 330 (located on The Embarcadero at Beale and Brannan Streets) (Date to be determined)
- Request authorization to enter into a Memorandum of Understanding with the San Francisco Municipal Transportation Agency for the Port of San Francisco to relinquish its rights to cargo freight rail service north of Cesar Chavez along Illinois Street (Date to be determined)

COMMUNICATIONS TO THE PORT COMMISSION FROM SEPTEMBER 18 TO OCTOBER 8, 2009):

- From Commander, U.S. Third Fleet, invitation to a reception aboard the USS Green Bay at Pier 30/32, on October 12, 2009 from 6 to 8 p.m. in celebration of San Francisco Fleet Week
- From the Potrero Boosters Neighborhood Association, copy of their newsletter *"The Potrero Community Voice"*
- From Harvard Kennedy School, invitation to attend one-week Executive Education Programs
- From the Association of Pacific Ports, invitation to the Fly-In, Fly-Out Seminar, "Recession Recovery: Navigating Back to Prosperity," on November 5, 2009 in South San Francisco
- From San Francisco Bay Conservation and Development Commission, copy of draft staff report and preliminary recommendation for proposed San Francisco Waterfront Special Area Plan Amendment 1-09 concerning Fill Removal Requirement between Pier 15 and Pier 17
- From San Francisco Municipal Transportation Authority and Port staff, memorandum regarding New Parking Pay Stations on Port Property

OCTOBER/NOVEMBER 2009
CALENDAR OF UPCOMING PORT MEETINGS – OPEN TO THE PUBLIC

DATE	TIME	GROUP	LOCATION
Oct. 27	2:00 p.m.	Closed Session/Port Commission	Port Commission Room
	3:15 p.m.	Open Session	@ Ferry Building
Nov. 10	2:00 p.m.	Closed Session/Port Commission	Port Commission Room
	3:15 p.m.	Open Session	@ Ferry Building

NOTES:

The San Francisco Port Commission meets regularly on the second and fourth Tuesday of the month at 3:15 p.m., unless otherwise noticed. The Commission Agenda and staff reports are posted on the Port's Website @ www.sfport.com. Contact Amy Quesada at 274-0406.

The Fisherman's Wharf Waterfront Advisory Group (FWWAG) meets regularly on a bi-monthly basis, on the third Tuesday of the month. The regular meeting time and place is 9:00 a.m. at Scoma's Restaurant, Pier 47 at Fisherman's Wharf. Contact Michael Nerney @ 274-0416 or michael.nerney@sfport.com

The Maritime Commerce Advisory Committee (MCAC) meets on a quarterly basis, on the third Thursday of the month, from 11:30 a.m. to 1:00 p.m. @ Pier 1. Contact Jim Maloney @ 274-0519 or jim.maloney@sfport.com

The Mission Bay Citizens Advisory Committee meets regularly on the second Thursday of the month, from 5:30 to 7:30 p.m. at the Mission Bay Visitor Center (255 Channel Street). Contact Catherine Reilly, Assistant Project Manager, Redevelopment Agency, @ 749-2516 or Catherine Reilly/REDEV/SFGOV@SFGOV

The Northeast Waterfront Advisory Group (NEWAG) meets regularly on a bi-monthly basis on the first Wednesday of the month from 5:00 p.m. to 7:00 p.m. in the Bayside Conference Room @ Pier 1. Contact Jonathan Stern @ 274-0545 or jonathan.stern@sfport.com

The Central Waterfront Advisory Group (CWAG) meets monthly on an as-needed basis, generally on the third Wednesday of the month from 5 to 7 p.m. in the Bayside Conference Room at Pier 1. Contact Mark Paez @ 705-8674 or mark.paez@sfport.com

The Rincon Point-South Beach Citizens Advisory Committee meets on a quarterly basis, from 5:00-7:00 p.m. at the South Beach Yacht Club (Pier 40 on The Embarcadero). Contact Catherine Reilly, Assistant Project Manager, Redevelopment Agency, @ 749-2516 or Catherine.Reilly/REDEV/SFGOV@SFGOV

The Southern Waterfront Advisory Committee (SWAC) meets every last Wednesday of the month from 6:15 to 8:15 p.m. Location to be determined. Contact David Beaupre @ 274-0539 or david.beaupre@sfport.com

The Waterfront Design Advisory Committee (WDAC) meets jointly with the Design Review Board of the Bay Conservation and Development Commission on the first Monday of the month at BCDC, 50 California Street, Rm. 2600, at 6:30 p.m. The Committee meets as needed on the fourth Monday of the month at 6:30 p.m. in the Bayside Conf. Rm. @ Pier 1. Contact Dan Hodapp @ 274-0625 or dan.hodapp@sfport.com

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FERRY BUILDING:

The Port Commission Hearing Room is located on the second floor of the Ferry Building. The main public entrance is from the west (Embarcadero) side and is served by a bank of elevators adjacent to the historic staircase. Accessible public restrooms are on the first floor at the northeast end of the building as well as on the second floor across the lobby from the Port Commission Hearing Room. The main path of travel to the Port Commission Hearing Room is equipped with remote infrared signage (Talking Signs). The Port Commission Hearing Room is wheelchair accessible. Accessible seating for persons with disabilities (including those using wheelchairs) is available. The closest accessible BART and MUNI Metro station is Embarcadero located at Market & Spear Streets. Accessible MUNI lines serving the Ferry Building area are the F-Line, 9, 31, 32 and 71. For more information about MUNI accessible services, call (415) 923-6142. The nearest accessible parking is provided in the following off-street pay lots:

A) 3 spaces in the surface lot on the west side of the Embarcadero at Washington St.
B) Hourly and valet parking in the Pier 3 lot. This lot is accessed through the Pier 3 bulkhead building entrance on the east side of the Embarcadero. This lot is located on the pier deck; adjacent to the ferry boat Santa Rosa.

Additional covered accessible off-street pay parking is available in the Golden Gateway Garage, which is bounded by Washington, Clay, Drumm and Battery Streets. Entrance is on Clay St. between Battery and Front Streets. There is no high-top van parking. Metered street parking is available on the Embarcadero, Washington, Folsom & Drumm Streets.

PIER 1:

The Port's fully accessible offices are in the west end of Pier 1. There are two public entrances; the main entrance on the west (Embarcadero), and the Port History walk entrance on the south apron. Each of these entrances is provided with an automatically operated door. Both entrances lead to the Bayside conference rooms. Accessible public restrooms, drinking fountains, payphone and TTY are on the first floor near the main entrance. The public spaces of the Port's offices are equipped with remote infrared signage (Talking Signs) identifying all primary entrances, paths of travel, meeting rooms and amenities. Accessible seating areas and assistive listening devices will be available in the Bayside Conference rooms.

Accessible meeting information policy:

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals.

A sign language interpreter and alternative format copies of meeting agendas and other materials can be provided upon request made at least 72 hours in advance of any scheduled meeting. Contact Wendy Proctor, Port's ADA Coordinator, at 274-0592, the Port's TTY number is (415) 274-0587.

Know Your Rights Under the Sunshine Ordinance:

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact Frank Darby by mail: Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at (415) 554-7724; by fax at (415) 554-7854 or by email at sotf@sfgov.org. Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, at http://www.sfgov.org/sunshine.

NOTICES

Prohibition of Ringing of Sound Producing Devices:

The ringing of and use of cell phones, pagers, and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic device.

Lobbyist Registration and Reporting Requirements:

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Government Conduct Code Sections §2.100 – 2.160) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness, Suite 3900, San Francisco, CA 94102, phone (415) 581-2300 or fax (415) 581-2317; web site: www.sfgov.org/ethics.

PORT OF SAN FRANCISCO

MEMORANDUM

October 8, 2009

TO: MEMBERS, PORT COMMISSION
Hon. Rodney Fong, President
Hon. Stephanie Shakofsky, Vice President
Hon. Kimberly Brandon
Hon. Michael Hardeman
Hon. Ann Lazarus

FROM: Monique Moyer
Executive Director

SUBJECT: Request approval of: (1) the issuance of the Port of San Francisco's Series 2009 Revenue Bonds (the "2009 Bonds") to fund certain improvements on Port property, in the aggregate principal amount not to exceed forty five million dollars ($45,000,000) with an interest rate not to exceed twelve percent per annum; (2) the forms of Indenture of Trust and the First Supplement to the Indenture of Trust, each between the Port and a trustee; (3) the sale of the Bonds by negotiated sale pursuant to a purchase contract; (4) the form of a bond purchase contract between the Port and Jefferies and Company, Inc.; (5) the preliminary form of the Official Statement relating to the Bonds and the distribution of the statement; and (6) the form of the Continuing Disclosure Certificate of the Port and the execution of the certificate.

DIRECTOR'S RECOMMENDATION: Approve the Port's 2009 Revenue Bonds and associated documents as described herein.

Background
Section 9.112 of Article IX of the City and County of San Francisco Charter entitled "Revenue Bonds of the Port Commission" gives the Port Commission exclusive power to perform or accomplish issuance of revenue bonds for Port-related purposes.

On July 1, 2009, the Port made the final payment on its revenue bonds originally issued in 1984. Currently, the Port has no outstanding bonded indebtedness. In anticipation of new debt capacity created by that repayment, Port staff developed a list of projects to be funded with a new revenue bond through an inter-divisional planning effort. Port staff focused on identifying projects that would (1) most benefit the Port financially by transforming under-utilized Port assets into performing assets, (2) meet the Port's

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maritime and public access missions, and (3) ensure the safety of Port employees. As a result of that effort, Port staff recommended the Cruise Terminal at Pier 27, Piers 19 or 23, Pier 33 North, Pier 50 Entryway and the Backlands Improvements and Seawall Repairs be funded through Port revenue bonds.

On July 14, 2009 through Resolution 09-39 the Port Commission approved the use of Port revenue bonds to fund the Cruise Terminal at Pier 27, Piers 19 or 23, Pier 33 North, Pier 50 Entryway and the Backlands Improvements and Seawall Repairs. In addition, through Resolution 09-38 the Port Commission adopted a municipal debt policy for the Port as well as a reimbursement resolution related to the proposed Port revenue bond (Resolution 09-40). At that time, Port staff noted its intention to return to the Port Commission requesting authorization to issue revenue bonds for those projects in the fall of 2009. This item would authorize the issuance of up to $45 million in Port revenue bonds as well as approve several accompanying documents required to issue Port revenue bonds.

Proposed 2009 Port Revenue Bond Funded Projects
Attached is a resolution authorizing the issuance of the sale and delivery of the 2009 Bonds in an amount not to exceed $45 million most of which would fund the following projects:

Project Description	2009 Bond Allocation
Pier 35 - Fund urgent repairs to both the sub-structure and super-structure including repairing failing wood columns, and repairing pilings, beams, girders, and slab panels. In addition, the project includes installing new ADA accessible restrooms in the terminal's main entrance/reception area. The 2009 Bond allocation is for design and construction costs. The project is currently under design with the most urgent repairs expected to be complete before April 2010 and the remainder by April 2011.	$5,500,000
Pier 33 - Build elevator and other accessible features as well as a bathroom to create a leasable space. The 2009 Bond allocation is for construction costs. This project is currently in design and will go to construction the fall of 2010.	2,000,000
Pier 19 or 23 – Renovate Pier 19 or 23 to provide office space and public access around the pier and on the aprons. The 2009 Bond allocation is for design and planning costs. We expect to issue a RFP for design services during the winter of 2010. Construction is expected to begin by the end of 2012.	2,000,000

Pier 19 - Replace Pier 19's roof to continue to lease the facility on an interim basis. The 2009 Bond allocation is for design and construction. The design will be complete by March 2010 and the construction complete by September 2010.	3,500,000
Pier 27 Cruise Terminal - Includes renovating the Pier 27 shed to a cruise terminal that will serve as a special event facility on non-cruise days. Also includes a public plaza/park on the front of the terminal. The 2009 Bond allocation is for design and planning costs. The project is currently in the design phase. Construction is anticipated to commence the first quarter of 2012 and be completed the first quarter of 2014.	10,000,000
Pier 50 – Repair the entryway to Pier 50 that houses the Port's Maintenance Facility, berthing space for ships, and Port tenants. The 2009 Bond allocation is for construction costs. The project is currently in the design phase. Construction is expected to commence in the spring of 2010 and be completed by February 2011.	1,500,000
Backlands Improvements - New roads and utilities to support new leasing plots that are planned for the site. The 2009 Bond allocation is for construction costs. The design is expected to be completed by the end of 2009, and the project will be advertised for bids sometime in spring of 2010. The construction is expected to be completed by the end of 2010	8,000,000

Total Project Costs	$32,500,000
CEQA Fees	342,211
Total Project Costs and CEQA Fees	**$32,842,211**
Bond Issuance Costs	486,568
Debt Service Reserve Fund	3,063,925
Additional Proceeds	2,296
Total 2009 Anticipated Revenue Bond Uses	**$36,395,000**

Port staff recently learned that the condition of Pier 35 is such that it may not be able to sustain its current usage until we are able to complete construction of the new cruise terminal at Pier 27. Thus, while not included in the list of projects approved by the Port Commission in July 2009, Port staff are recommending to add $5.5 million to the proposed revenue bond program to fund urgent repairs and ADA accessible restrooms in the main lobby to Pier 35. The $5.5 million would not result in an increase to the overall Port revenue bond. Rather, to fund the Pier 35 improvements Port staff are recommending reducing the allocation to Pier 50's entryway from $10 million that was recommended to the Port Commission in July 2009 to $1.5 million. The $10 million allocation would have fully repaired Pier 50's entryway. The proposed $1.5 million allocation will fund the repairs absolutely necessary to continue to use the entryway.

While we currently expect to issue $36.4 million in bonds, the added authorization of up to $45 million gives the Port sufficient flexibility to address any changes in market conditions.

Proposed Financing Structure

Because many of the ultimate uses of the Port facilities created by the proposed revenue bonds would benefit private sector tenants, the proposed bonds would be a mix of taxable and tax exempt bonds which will result in a mix of interest rates. Under current market conditions, the Port could issue approximately $36.4 million in revenue bonds at 5.8% blended interest rate assuming the Port earns an "A" rating. Under this scenario, the average annual debt service would be approximately $2.4 million. However, as described in more detail below, to be more conservative, we are assuming a blended 7.14% interest rate would result in an annual debt service of approximately $2.7 million. To provide flexibility as well as a cap on the level of interest rates the Port will consider paying on the revenue bonds, the attached resolution states that the interest rate will not exceed 12%, the allowable State maximum.

The Port Revenue Bond Series 2009 could be priced the middle of December 2009 or the first week of January 2010 depending on the dates of the Board of Supervisors' and Mayor Gavin Newsom's final approval of the legislation.

Port staff intend to issue the 2009 Bonds through a negotiated sale with the Jefferies and Company Inc., the Port's underwriters selected by a Request for Proposals (RFP) through the Controller's Office as-needed pool of underwriters. This will afford the Port more flexibility in regards to changing the sales date or the structure of the issue in attempts to obtain lower interest rates. Port staff believe that a negotiated sale is more appropriate at this time since the Port has not been in the bond market for sometime and we wish to minimize difficulties in marketing the bonds, which may result in a higher cost to the Port.

1. Financing Structure:

Debt Service - The table below shows:

A. Estimated annual debt service payments as of October 2, 2009, based on a projected single "A" credit rating. Port staff have met with the three

primary credit rating agencies and expect to receive a rating on the 2009 Bonds as early as October 26, 2009.

B. The corresponding True Interest Cost (TIC) estimate. This is the interest expense of the 2009 Bonds or the rate compounded semi-annually, necessary to discount the amounts payable on the principal and interest payment dates to the purchase price received for the new issue of bonds. In other words, it's the average weighted interest rate aggregated for the individual bond maturities.

Average Annual Debt Service	$2,730,035
TIC	7.14%

This amount is based on a weighted average interest rate of 7.14% that is 134 basis points greater than the current market conditions for "A" rated municipal debt of 5.80%. Since the market fluctuates and it has been 25 years since the Port has issued significant new debt, we believe it is prudent to anticipate a higher interest rate.

However, as the table below shows, if the Port receives an "A" rating and the market is similar as it is today, the following would be the TIC estimate and average annual debt service payments:

Average Annual Debt Service	$2,417,344
TIC	5.80%

As described in the two tables above, the Port's average annual debt service would be $312,691 less if we are able to sell the Port's bonds at a 5.8% interest rate rather than 7.14%. However, under both scenarios, the Port's current budget of $4.7 million for debt service is more than sufficient to cover the debt service costs.

2. Bond Structure
Maturity – the 2009 Bonds will mature on December 1, 2039.

3. Description of Documents for Port Commission Approval
Port staff request that the Port Commission approve the following documents as required for the issuance of the 2009 Bonds:

Port Commission Resolution No. 09-63
Preliminary Official Statement
Continuing Disclosure Certificate
Indenture of Trust
First Supplement to the Indenture to Trust
Bond Purchase Agreement

All of the foregoing documents are described in more detail below.

The attached financing documents are in substantially final form, however minor modifications will continue to be made until the bond closing. The Port staff has been working with Bond Counsel, Disclosure Counsel, Financial Advisors, Underwriters, and the City Attorney's Office to structure the 2009 revenue bond issue and develop the necessary documents.

A. Preliminary Official Statement (POS) - This document is distributed to potential investors and serves as a disclosure and marketing document for the 2009 Bonds. It describes the financial condition of the Port, the condition of its facilities, environmental hazards, etc. The POS also describes the terms of the financing and the provisions of the legal documents. The POS becomes the Official Statement (OS) after bond closing. The Securities and Exchange Commission (SEC) considers this document a "disclosure" document. Various SEC rules require that the POS be accurate and informative and that there be no material misstatements or omissions of facts. By approval of this Resolution, the Port Commission will approve the Port's disclosure and is presumed by the SEC to have reviewed the disclosure for completeness and accuracy.

B. Indenture of Trust (Master Indenture) –This document is the principal security document for the 2009 Bonds to be issued. In other words, it is the contract between the bondholders and the Port. The Indenture contains covenants regarding the operation of the Port that are designed to enhance the security of the Bonds and gives bondholders the comfort that they will be paid.

   For example, the Indenture of Trust requires the Port to maintain debt service coverage of 1.30. To help provide additional assurances that the Port can meet its debt service coverage requirement, we included language in the Indenture of Trust that creates a Revenue Stabilization Fund to which we would deposit the Port's 15% operating reserve. The Port can use the Revenue Stabilization fund when calculating its debt service coverage. This provides bondholders with extra security that the Port has additional resources available to make debt service payments in the event that the Port's revenue significantly decline and/or expenses significantly increase such a the Port could not meet its 1.30 debt service coverage requirement.

C. First Supplement to the Indenture of Trust - This document is a short supplement to the Indenture of Trust (Master Indenture), which provides for the specific terms of the 2009 Bonds. Those terms include the bonds' maturity and payment schedules.

D. Bond Purchase Agreement - This document contains the terms and conditions for the sale of the 2009 Bonds to the underwriters in a

negotiated sale. In other words, it's the Port's contract with the underwriting firm, Jefferies and Company Inc.

E. Continuing Disclosure Agreement – This document is an agreement by the Port to publicly file an Annual Report relating to certain aspects of the Bonds and to file a public notice immediately following a special event such as a change in credit rating, a draw on the Debt Service Reserve Fund, etc.

4. 2009 Bonds Characteristics

Port Commission of San Francisco Revenue Bonds, Series 2009:

• Up to Amount of Proposed Issue	$45 million
• Average Interest Rate	7%
• Final Maturity	12/01/2039

5. Estimated Sources and Uses of Funds, subject to change.

A. Sources

• Par Amount of Bonds	$36,395,000
Total Sources of Funds	$36,395,000

B. Uses

• Project Fund Deposit	$32,842,211
• Deposit to Reserve Fund	3,063,925
• Costs of Issuance*	486,568
• Additional Proceeds	2,296
Total	$36,395,000

*Includes fees of rating agencies, financial advisers, legal counsel, underwriters, verification agent, financial printer, and other miscellaneous expenses relating to the issuance of the 2009 Bonds.

6. Other

A. Negotiated Sale – Staff will report back to the Port Commission on the negotiated price of the financing and provide a debt service schedule.

7. Remaining Major Tasks

A. Credit

Port staff met with the Rating Agencies (Moody's Investors Services, Standard & Poor's Corporation and Fitch Ratings) on October 5, 6 and 8 2009 and presented the Port's financial picture. The remaining credit tasks are to:

- Provide any follow-up information, as requested
- Receive ratings from the three Rating Agencies
- Evaluate rating impact on financing

The Rating Agencies will present the Port's financing to their respective credit committees.

B. Preliminary Official Statement (POS)

- Complete disclosure and marketing document (last Port Official Statement was issued in 2004).

C. Indenture of Trust and First Supplement to the Indenture of Trust

- Complete final changes, if any, to the Indenture of Trust and the First Supplement to the Indenture of Trust.

D. Bond Sale/Pricing

- The underwriters will pre-market the Port's bonds to the investment community
- Port staff, together with our Financial Advisors, will negotiate interest rates and prices for purchase of the bonds by the Underwriters.

E. Closing

- The financing team will execute the final financing documents
- The Port will deliver the bonds to the underwriters on the closing date in return for the purchase price ("proceeds"). The proceeds will be deposited into the Port's accounts established for the 2009 bonds.

8. Financing Schedule (Subject to Change)

	Dates
Port Commission approval of financing documents	October 13, 2009
BOS and Mayor approval of financing documents	November 17, 2009
Receive ratings	Week of December 14, 2009
Mailing of POS to potential investors	Week of December 28, 2009
Pricing and negotiation of terms	Week of January 11, 2010
Bond Closing	Week of January 25, 2010

SUMMARY

Port staff recommends issuing up to $45 million in 2009 Port revenue bonds and approving the POS, Continuing Disclosure Certificate, and the Indenture of Trust, the First Supplement to the Indenture of Trust, and the Bond Purchase Agreement.

There could be other unforeseen issues that arise between now and the date of the bond sale. The Executive Director will be monitoring the progress of this transaction and will delay the sale should, in her opinion, any negative consequences outweigh the benefits of issuing the bonds.

Prepared by: Tina Olson, Deputy Director
Finance and Administration

Attachments:

1. Port Commission Resolution No. 09-63
2. Preliminary Official Statement
3. Continuing Disclosure Certificate
4. Indenture of Trust
5. First Supplement to the Indenture of Trust
6. Bond Purchase Agreement

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 09-63

WHEREAS, The Port Commission of the City and County of San Francisco (the "Port Commission") desires to finance certain improvements to Pier 35 (the "Pier 35 Project") and certain other Port projects, identified in Resolution No. 09-30, which was adopted by the Port Commission on July 14, 2009 (together with the Pier 35 Project, the "Projects") with proceeds from the issuance, sale and delivery of revenue bonds (the "Bonds"); and

WHEREAS, Pursuant to the Charter (the "Charter") of the City and County of San Francisco (the "City"), the Port Commission may issue revenue bonds with the approval of the Board of Supervisors of the City (the "Board"), such bonds to be issued and sold pursuant to an ordinance to be adopted by the Board (the "Ordinance"); and

WHEREAS, In connection with the issuance, sale and delivery of the Bonds, the Port Commission will enter into an Indenture of Trust and a First Supplement to Indenture of Trust and certain other related documents and will prepare a Preliminary Official Statement and execute a final Official Statement; and

WHEREAS, The Bonds will be sold by negotiated sale pursuant to a bond purchase contract; now, therefore, be it

RESOLVED, By this Port Commission of the City and County of San Francisco as follows:

Section 1. Recitals. All of the recitals herein are true and correct.

Section 2. Conditions Precedent. All conditions, things and acts required by law to exist, to happen and to be performed precedent to and in the execution and delivery of the Bonds exist, have happened and have been performed in due time, form and manner in accordance with applicable law, and the Port is authorized pursuant to the "Charter" and the Ordinance to incur indebtedness in the manner and form provided in this Resolution, subject, however, to approval by the Board of the Ordinance and approval by the Board of a resolution authorizing the issuance and delivery of the Bonds.

Section 3. Approval of the Bonds. The Port Commission hereby approves the issuance, sale and delivery of the Bonds, which shall be executed and delivered in accordance with the Indenture of Trust and the First Supplement to Indenture of Trust referred to in Section 4 below (collectively, the "Indenture"), as the same is finally executed and delivered. The proceeds of the Bonds will be used to (i) fund the Projects;

(ii) fund a reserve fund or reserve surety, as appropriate; (iii) fund capitalized interest; and (iv) pay costs of issuance of the Bonds. The Bonds shall be designated as "Port Commission of the City and County of San Francisco Port Revenue Bonds, Series 2009," with such series designation or such other designation as deemed appropriate by the Executive Director of the Port or her designee (collectively, the "Executive Director"). The Bonds shall be issued in an aggregate principal amount not to exceed forty-five million dollars ($45,000,000), with an interest rate not to exceed twelve percent (12%) per annum. The Bonds may be issued in one or more series or sub-series and in whole or in part as tax-exempt or taxable obligations and may be designated in whole or in part as "Build America Bonds" under the American Recovery and Reinvestment Act of 2009. The Bonds shall be subject to prepayment as set forth in the Indenture. To the extent deemed necessary or desirable by the Executive Director, this Port Commission authorizes the procurement of credit enhancement for the Bonds, including, but not limited to, municipal bond insurance or a debt service reserve fund surety bond. Notwithstanding Section 10 hereof, the documents authorized herein may be modified or amended to permit the procurement of credit enhancement for the Bonds, to the extent deemed necessary or desirable by the Executive Director, upon consultation with the City Attorney.

Section 4. Approval of the Indenture and Authorization of Selection of the Trustee. The forms of the Indenture of Trust and the First Supplement to Indenture of Trust, each between the Port and a trustee, as presented to this Port Commission, copies of which are on file with the Secretary of the Port Commission, is hereby approved. The Executive Director of the Port is hereby authorized to execute the Indenture, with such changes, additions and modifications as the Executive Director may make or approve in accordance with Section 10 hereof. The Executive Director is hereby authorized to select a trustee to serve as trustee under the Indenture (the "Trustee").

Section 5. Sale of Bonds by Negotiated Sale; Selection of Underwriters. The Executive Director is hereby authorized to sell the Bonds by negotiated sale pursuant to a purchase contract as described in Section 6 below, if the Director determines that such manner of sale is in the best interest of the Port, such determination to be conclusively evidenced by the execution and delivery of such purchase contract for the Port. In order to facilitate the sale of the Bonds by negotiated sale, the Executive Director is hereby authorized and directed to appoint one or more investment banking firms to act as underwriters for the Bonds in accordance with Port policies and procedures.

Section 6. Approval of Bond Purchase Contract relating to the Bonds. The form of a bond purchase contract between the Port and Jefferies and Company, Inc., as underwriter, relating to the Bonds (the "Bond Purchase Contract"), as presented to this Port Commission, a copy

of which is on file with the Secretary of the Port Commission, is hereby approved. The Executive Director is hereby authorized to execute the Bond Purchase Contract, with such changes, additions and modifications as the Executive Director may approve in accordance with Section 10 hereof; such approval to be conclusively evidenced by the execution and delivery of the Bond Purchase Contract by the Executive Director.

Section 7. Approval of the Official Statement in Preliminary and Final Form. The form of an official statement relating to the Bonds (the "Official Statement"), as presented to the Port Commission, a copy of which is on file in preliminary form with the Secretary of the Port Commission, is hereby approved. The Executive Director is hereby authorized to approve the distribution of the Preliminary Official Statement in substantially said form, with such changes, additions, modifications or deletions as the Executive Director may approve in accordance with Section 10 hereof; such approval to be conclusively evidenced by the Executive Director's direction to distribute the Preliminary Official Statement to potential purchasers of the Bonds. The Executive Director is hereby authorized to cause the distribution of the Preliminary Official Statement, deemed final for purposes of Rule 15c2-12 of the Securities and Exchange Act of 1934, as amended, and to sign a certificate to that effect. The Executive Director is hereby further authorized and directed to sign the Official Statement in final form.

Section 8. Approval of the Continuing Disclosure Certificate. The form of a Continuing Disclosure Certificate of the City, as presented to this Port Commission, a copy of which is on file with the Secretary of the Port Commission, is hereby approved. The Executive Director is hereby authorized to execute the Continuing Disclosure Certificate, with such changes, additions, modifications or deletions as the Controller may approve in accordance with Section 10 hereof; such approval to be conclusively evidenced by the execution and delivery of the Continuing Disclosure Certificate by the Executive Director.

Section 9. General Authority. The Executive Director, the Secretary of the Port Commission and other officers of the Port, the City Attorney and their duly authorized deputies and agents are hereby authorized and directed, jointly and severally, to take such actions and to execute and deliver such certificates, agreements, requests or other documents as they may deem necessary or desirable to implement the proposed financing through the execution and delivery of the Bonds, to enter into the Indenture and the Bond Purchase Contract, to facilitate the issuance, sale and delivery of the Bonds and to obtain bond insurance or other credit enhancements with respect to the financing of the Project and otherwise to carry out the provisions of this Resolution.

Section 10. Modifications, Changes and Additions. The Executive Director is hereby authorized to approve and make such

modifications, changes or additions to the Indenture, the Bond Purchase Contract, the Official Statement, and the Continuing Disclosure Certificate (collectively the "Financing Documents") upon consultation with the City Attorney, as may be necessary or desirable in the interests of the City, and which changes do not materially increase the obligations of the Port Commission under the Financing Documents. The Executive Director's approval of such modifications, changes or additions shall be conclusively evidenced by the execution and delivery by the Executive Director of the Financing Documents.

Section 11. Projects. In addition to the Projects described in Resolution No. 09-39, the Port Commission hereby approves the use of proceeds of the Bonds to finance improvements to Pier 35.

Section 12. Ratification of Prior Actions. All actions authorized and directed by this Resolution and heretofore taken are hereby ratified, approved and confirmed by this Port Commission.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of October 13, 2009.

_____
Secretary

ATTACHMENT 2

PRELIMINARY OFFICIAL STATEMENT DATED [NOVEMBER __, 2009]

New Issue—Book-Entry Only

Ratings: Moody's: "__"
S&P: "__"
Fitch: "__"

(See "RATINGS" herein)

In the opinion of Hawkins Delafield & Wood LLP, San Francisco, California, and Lofton & Jennings, San Francisco, California, Co-Bond Counsel with respect to the Bonds, under existing law and assuming compliance with the tax covenants described herein, and the accuracy of certain representations and certifications made by the Port Commission and described herein, interest on the Series 2009A Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), except that no opinion is expressed as to the exclusion of interest from gross income for any period during which the Series 2009A Bonds are held by a person who, within the meaning of Section 147(a) of the Code, is a "substantial user" of the facilities financed with proceeds of the Series 2009A Bonds or a "related person". Co-Bond Counsel are also of the opinion that such interest is not treated as a preference item in calculating the alternative minimum tax imposed under the Code with respect to individuals and corporations nor is it included in adjusted current earnings for purposes of computing the alternative minimum tax imposed on corporations. Interest on the Series 2009B Bonds is not excluded from gross income for federal income tax purposes. Co-Bond Counsel is further of the opinion that interest on the Bonds is exempt from California personal income taxes. See "TAX MATTERS" herein regarding certain other tax considerations. **[To be revised by Co-Bond Counsel]**

$ _____*

PORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO REVENUE BONDS

$ _____*
SERIES 2009A
(TAX EXEMPT NON-AMT)

$ _____*
SERIES 2009B
(TAXABLE)

Dated: Date of Delivery

Due: December 1, as shown below

THIS COVER PAGE CONTAINS CERTAIN INFORMATION FOR QUICK REFERENCE ONLY. INVESTORS MUST READ THE ENTIRE OFFICIAL STATEMENT TO OBTAIN INFORMATION ESSENTIAL TO THE MAKING OF AN INFORMED INVESTMENT DECISION.

The Port Commission of the City and County of San Francisco Revenue Bonds, Series 2009A (Tax-Exempt Non-AMT) and Series 2009B (Taxable) (collectively, the "Bonds") are being issued by the Port Commission of the City and County of San Francisco (the "Port Commission") pursuant to the Charter of the City and County of San Francisco, the Indenture of Trust dated as of [November 1, 2009] between the Port Commission and [TRUSTEE], as trustee (the "Trustee"), and the First Supplement to Indenture of Trust dated as of [November 1, 2009] between the Port Commission and the Trustee. The Bonds are being issued to finance the design, construction, reconstruction, repair and/or improvement of various facilities of the Port of San Francisco, to make a deposit to the Reserve Fund for the Bonds in the amount of the Reserve Requirement, and to pay certain costs of issuance of the Bonds. See "ESTIMATED SOURCES AND USES OF FUNDS" herein.

Interest on the Bonds will be payable on June 1, 2010 and on each December 1 and June 1 thereafter until their respective stated maturity dates. The Bonds will be issued only as fully registered bonds without coupons and when issued will be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), to which payments of principal of and interest on the Bonds will be made. Individual purchases of the Bonds will be made in book-entry form only, in denominations of $5,000 or any integral multiple thereof. Beneficial Owners of the Bonds will not receive physical delivery of bond certificates. Payment of principal of the Bonds at maturity, as shown in the Maturity Schedule set forth on the inside cover, and interest when due will be payable by the Trustee, as paying agent, to DTC. DTC will remit such principal and interest payments to its participants, which will be responsible for remittance to the Beneficial Owners of the Bonds. See Appendix D — "DTC AND THE BOOK-ENTRY ONLY SYSTEM."

The Bonds are subject to optional and mandatory redemption prior to maturity as described herein.

The Bonds are special, limited obligations of the Port Commission secured by and payable solely from Net Revenue (as defined herein) of the Port Commission and from moneys held in certain funds and accounts established pursuant to the Indenture. See "SECURITY AND SOURCES OF PAYMENT FOR THE BONDS" herein. **The Bonds are not a debt or obligation of the City and County of San Francisco, the State of California or any political subdivision thereof (other than the Port Commission payable solely from Net Revenue). Neither the credit nor the taxing power of the City and County of San Francisco, the State of California or any political subdivision thereof is pledged to pay the principal of and interest on the Bonds. The Port Commission has no taxing power.**

MATURITY SCHEDULE

(See inside cover)

The Bonds are offered when, as, and if issued by the Port Commission and accepted by the purchasers, subject to approval of legality by Hawkins Delafield & Wood LLP, San Francisco, California, and Lofton & Jennings, San Francisco, California, Co-Bond Counsel. Certain legal matters will be passed upon for the Port Commission by Orrick, Herrington & Sutcliffe LLP, San Francisco, California, Disclosure Counsel, and the City Attorney of the City and County of San Francisco, and for the Underwriter by its counsel, Chapman and Cutler LLP, San Francisco, California. It is expected that the Bonds will be available for delivery in book-entry form through the facilities of DTC in New York, New York, on or about [December __, 2009].

Jefferies & Company, Inc.

Date: [_____, 2009]

---

* Preliminary, subject to change.

MATURITY SCHEDULE*

(Base CUSIP† Number: _____)
Series 2009A Bonds (Non-AMT Tax-Exempt)
$_____ Serial Bonds

Maturity (December 1)	Principal Amount	Interest Rate	Yield	CUSIP†
	$	%	%	

$_____ ____% Term Bond Due December 1, ____ Yield – ____% Price – _____% CUSIP†_____

(Base CUSIP† Number: _____)
Series 2009B Bonds (Taxable)
$_____ Serial Bonds

Maturity (December 1)	Principal Amount	Interest Rate	Yield	CUSIP†
	$	%	%	

$_____ ____% Term Bond Due December 1, ____ Yield – ____% Price – _____% CUSIP†_____

---

* Preliminary, subject to change.

† Copyright 2009, American Bankers Association. CUSIP data herein is provided by Standard & Poor's, CUSIP Service Bureau, a division of The McGraw-Hill Companies, Inc. This data is not intended to create a database and does not serve in any way as a substitute for the CUSIP Service. CUSIP numbers are provided for convenience of reference only. Neither the Port Commission nor the Underwriter take any responsibility for the accuracy of such CUSIP numbers.

No dealer, broker, salesperson or other person has been authorized to give any information or to make any representations other than those contained in this Official Statement and, if given or made, such other information or representations must not be relied upon as having been authorized. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of the Bonds by a person in any jurisdiction in which it is unlawful for such person to make such an offer, solicitation or sale.
The information set forth herein has been obtained from the Port, the City and other sources which are believed to be reliable but it is not guaranteed as to accuracy or completeness. The information and expressions of opinion herein are subject to change without notice and neither delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the Port or the City since the date hereof.

The Underwriter has provided the following sentence for inclusion in this Official Statement. The Underwriter has reviewed the information in this Official Statement in accordance with, and as part of, its responsibility to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriter does not guarantee the accuracy or completeness of such information.

The information and expression of opinions herein are subject to change without notice and neither delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the information provided herein since the date hereof.

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITER MAY OVERALLOT OR EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICES OF THE BONDS AT LEVELS ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME. THE UNDERWRITER MAY OFFER AND SELL THE BONDS TO CERTAIN DEALERS, INSTITUTIONAL INVESTORS AND OTHERS AT PRICES LOWER THAN THE PUBLIC OFFERING PRICES STATED ON THE FRONT COVER HEREOF, AND SAID PUBLIC OFFERING PRICES MAY BE CHANGED FROM TIME TO TIME BY THE UNDERWRITER.

This Official Statement is not to be construed as a contract with the purchaser or purchasers of the Bonds. Statements contained in this Official Statement which involve estimates, forecasts or matters of opinion, whether or not expressly so described herein, are intended solely as such and are not to be construed as representations of facts.

FORWARD-LOOKING STATEMENTS

CERTAIN STATEMENTS CONTAINED IN THIS OFFICIAL STATEMENT REFLECT NOT HISTORICAL FACTS BUT FORECASTS AND "FORWARD-LOOKING STATEMENTS." ALL FORWARD-LOOKING STATEMENTS ARE PREDICTIONS AND ARE SUBJECT TO KNOWN AND UNKNOWN RISKS AND UNCERTAINTIES. NO ASSURANCE CAN BE GIVEN THAT THE FUTURE RESULTS DISCUSSED HEREIN WILL BE ACHIEVED, AND ACTUAL RESULTS MAY DIFFER MATERIALLY FROM THE FORECASTS DESCRIBED HEREIN. IN THIS RESPECT, THE WORDS "ESTIMATE", "PROJECT", "ANTICIPATE", "EXPECT", "INTEND", "BELIEVE" AND SIMILAR EXPRESSIONS ARE INTENDED TO IDENTIFY FORWARD-LOOKING STATEMENTS. ALL PROJECTIONS, FORECASTS, ASSUMPTIONS, EXPRESSIONS OF OPINIONS, ESTIMATES AND OTHER FORWARD-LOOKING STATEMENTS ARE EXPRESSLY QUALIFIED IN THEIR ENTIRETY BY THE CAUTIONARY STATEMENTS SET FORTH IN THIS OFFICIAL STATEMENT. GIVEN THEIR UNCERTAINTY, INVESTORS ARE CAUTIONED NOT TO PLACE UNDUE RELIANCE ON SUCH STATEMENTS.

[Insert Map]

PORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO

Rodney Fong, *President*
Stephanie Shakofsky, *Vice President*
Kimberly K. Brandon, *Commissioner*
Michael Hardeman, *Commissioner*
Ann B. Lazarus, *Commissioner*
Monique Moyer, *Executive Director*

THE CITY AND COUNTY OF SAN FRANCISCO

MAYOR

Gavin Newsom

BOARD OF SUPERVISORS

David Chiu, Board President, District 3

Michela Alioto-Pier, District 2
John Avalos, District 11
David Campos, District 9
Carmen Chu, District 4
Chris Daly, District 6
Bevan Dufty, District 8
Sean Elsbernd, District 7
Eric Mar, District 1
Sophie Maxwell, District 10
Ross Mirkarimi, District 5

CITY ATTORNEY

Dennis J. Herrera

CITY TREASURER

José Cisneros

OTHER CITY AND COUNTY OFFICIALS

Edwin Lee, City Administrator
Benjamin Rosenfield, Controller

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San Francisco, California

Lofton & Jennings, San Francisco, California

Disclosure Counsel

Orrick, Herrington & Sutcliffe LLP, San Francisco, California

Co-Financial Advisors

Public Financial Management, Inc.,
San Francisco, California

Backstrom McCarley Berry & Co. LLC,
San Francisco, California

Trustee

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OFFICIAL STATEMENT

$_____[1]

PORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO
REVENUE BONDS

$_____*	$_____*
Series 2009A	Series 2009B
(Tax Exempt Non-AMT)	(Taxable)

INTRODUCTION

This Official Statement is furnished in connection with the offering of $_____* aggregate principal amount of the Port Commission of the City and County of San Francisco Revenue Bonds, Series 2009A (Tax-Exempt Non-AMT) (the "Series 2009A Bonds"), and $_____* aggregate principal amount of the Port Commission of the City and County of San Francisco Revenue Bonds, Series 2009B (Taxable) (the "Series 2009B Bonds" and collectively with the Series 2009A Bonds, the "Bonds").

This Introduction is subject in all respects to the more complete information contained elsewhere in this Official Statement, including the Appendices attached hereto. Unless otherwise defined below, all capitalized terms used in this Official Statement shall have the meanings ascribed thereto in the Indenture (as defined below).

The Port of San Francisco

The Port of San Francisco (the "Port"), consisting of seven and one-half miles of waterfront property from Hyde Street Pier south to India Basin, was transferred in trust to the City and County of San Francisco (the "City") by the State of California (the "State") in 1969. The Port is governed by the Port Commission of the City and County of San Francisco (the "Port Commission") and is managed as a self-supporting enterprise department of the City. The Port's waterfront property comprises a natural harbor with channel and berth depths of up to 42 feet. The Port's revenue is derived primarily from leases of Port property to maritime, commercial and industrial enterprises and from maritime operations, including cargo, ship repair, fishing, harbor services, cruise and other maritime activities. The Port has no taxing power. The Port's financial operations are included as a part of the City's budget and financial reporting. Additional information concerning the Port's organization and finances is set forth herein under "THE PORT OF SAN FRANCISCO," "PORT FINANCIAL OPERATIONS" and in Appendix A— "THE PORT OF SAN FRANCISCO—AUDITED FINANCIAL STATEMENTS FOR THE FISCAL YEARS ENDED JUNE 30, 2008 AND 2009."

Authority for Issuance

The Bonds are being issued pursuant to Section 9.107 of the Charter of the City (the "Charter"), Chapter 43, Article XII ("Article XII") of the City and County of San Francisco Municipal Code (the "Municipal Code"), an Indenture of Trust, dated as of [November 1, 2009] (the "Master Indenture"), between the Port Commission and [TRUSTEE] (the "Trustee"), a First Supplement to Indenture of Trust dated as of [November 1, 2009] between the Port Commission and the Trustee (the "First Supplemental Indenture" and, together with the Master Indenture, the "Indenture") and a Resolution of the Port Commission adopted on [October __, 2009].

---

[1] Preliminary subject to change

Purpose

The Bonds are being sold to provide funds to: (i) finance the design, construction, reconstruction, repair and/or improvements to various facilities of the Port as described herein (the "Series 2009 Projects"); (ii) fund a Reserve Fund; and (iii) pay costs associated with the issuance of the Bonds. See "THE SERIES 2009 PROJECTS"

The Bonds are not a debt or obligation of the City and County of San Francisco, the State of California or any political subdivision thereof (other than the Port Commission payable solely from Net Revenue). Neither the credit nor the taxing power of the City and County of San Francisco, the State of California or any political subdivision thereof is pledged to pay the principal of and interest on the Bonds. The Port Commission has no taxing power.

Security and Sources of Payment for the Bonds

The Bonds are issued and secured pursuant to the terms of the Indenture. The Bonds are special, limited obligations of the Port Commission payable solely from Net Revenue and from amounts on deposit in certain funds and accounts held under the Indenture. No funds of the Port other than the Net Revenue are pledged to or available for payment of the principal of or interest on the Bonds. Under the Indenture, the Port Commission covenants that it will manage its business operations and establish and at all times maintain rentals, rates, fees and charges for the use of the Port Area and for services rendered by the Port Commission in connection with the Port Area so that Net Revenue in each Fiscal Year will be at least equal to 130% of Annual Debt Service with respect to the Bonds for such Fiscal Year. In determining Net Revenues pursuant to the provisions of the Indenture described in this paragraph, the Port Commission may take into account as a credit the amount on deposit in the Revenue Stabilization Fund on June 30 of each Fiscal Year; provided that the Port Commission shall maintain Coverage equal to at least 100% without regard to any credit for any such amounts or deposits in the Revenue Stabilization Fund. The Port Commission has also agreed to take certain specified actions in the event that Net Revenue falls below the required levels.

Upon the issuance of the Bonds, the Port Commission will fund the Reserve Fund relating to the Bonds in an amount equal to the Reserve Requirement (defined herein). Moneys on deposit in the Reserve Fund will be used and withdrawn for the purpose of paying principal of and interest on the Bonds in the event Net Revenue deposited with the Trustee is insufficient therefor.

Pursuant to the Master Indenture, the Port Commission is permitted to issue additional bonds and to enter into additional obligations secured by Net Revenue on a parity with the payment of principal of and interest on the Bonds, provided that certain conditions are satisfied as described herein. The Indenture also permits the Port Commission to incur subordinate obligations. See "SECURITY AND SOURCES OF PAYMENT FOR THE BONDS—Additional Bonds and Other Indebtedness" herein.

The Port Commission has previously issued revenue bonds, but upon issuance of the Bonds, no other obligations payable from Net Revenue on a parity with the Bonds will be outstanding.

For more information regarding the security and sources of payment for the Bonds, see "SECURITY AND SOURCES OF PAYMENT FOR THE BONDS," "THE PORT OF SAN FRANCISCO," "PORT FINANCIAL OPERATIONS," "PORT REAL ESTATE PORTFOLIO," "PORT MARITIME OPERATIONS" and "PORT CAPITAL PLAN AND DEVELOPMENT STRATEGY" herein. Audited financial information concerning the Port is set forth in Appendix A attached hereto. See "CERTAIN RISK FACTORS" for a discussion of certain risks related to an investment in the Bonds.

Continuing Disclosure and Additional Information

The Port Commission will covenant in a Continuing Disclosure Certificate, to be delivered concurrently with the issuance of the Bonds, to provide certain financial information and operating data relating to the Port Commission and notices of certain events, if material. Such information and notices will be filed by the Port Commission with the Municipal Securities Rulemaking Board ("MSRB") through its Electronic Municipal Market

Access ("EMMA") system. For more information concerning the Port Commission's continuing disclosure commitment and the form of the Continuing Disclosure Certificate, see "CONTINUING DISCLOSURE" herein and Appendix C "FORM OF CONTINUING DISCLOSURE CERTIFICATE" attached hereto.

Brief descriptions of the Bonds, the Indenture, the security and sources of payment for the Bonds, the Net Revenue, the Port Commission and related matters are included in this Official Statement, together with summaries of certain provisions of the Bonds, the Indenture and certain other documents. Such descriptions do not purport to be comprehensive or definitive. All references herein to the Indenture, the Bonds and other documents and instruments are qualified in their entirety by reference to such documents or instruments or the forms thereof, copies of which are available for inspection at the office of the Port Commission. The Port Commission regularly prepares a variety of reports, including audits, budgets and related documents, which may be obtained from the Port Commission. Additional information regarding such reports, the Indenture or other documents relating to the Bonds or this Official Statement may be obtained by contacting the Manager of Communications, Port of San Francisco, Pier 1, San Francisco, CA 94111; Telephone (415) 274-0400, Fax (415) 274-0412. Copies of the Indenture are also available for inspection at the principal corporate trust office of the Trustee.

TERMS OF THE BONDS

General

The Bonds will be executed and delivered only as one fully-registered Bond for each maturity shown on the inside cover hereof. The Bonds will be delivered only in denominations of $5,000 or an integral multiple thereof and interest on the Bonds shall be payable on each June 1 and December 1, commencing June 1, 2010, so long as any Bonds are outstanding (each an "Interest Payment Date"). Interest on the Bonds shall be computed on the basis of a 360-day year comprised of twelve 30-day months. Interest on the Bonds will accrue from the date of delivery thereof at the rates per annum set forth on the inside cover of this Official Statement. The principal of the Bonds will be payable, subject to redemption, as described below, on the dates and in the principal amounts set forth on the inside cover of this Official Statement.

Form and Registration

The Bonds, when issued, will be registered in the name of Cede & Co., as registered owner and nominee of The Depository Trust Company, New York, New York ("DTC," together with any successor securities depository, the "Securities Depository"). DTC will act as initial Securities Depository for the Bonds so purchased. Individual purchases will be made in book-entry-only form. Purchasers will not receive a certificate representing their beneficial ownership interest in the Bonds. So long as Cede & Co. is the registered owner of the Bonds, as nominee of DTC, references herein to the Bondholders, holders or registered owners shall mean Cede & Co. as aforesaid, and shall not mean the "Beneficial Owners" of the Bonds. In this Official Statement, the term "Beneficial Owner" shall mean the person for whom a Participant (as defined herein) acquires an interest in the Bonds.

So long as Cede & Co. is the registered owner of the Bonds, all payments of principal, premium (if any) and interest on the Bonds will be payable by wire transfer of same-day funds by the Trustee to Cede & Co., as nominee of DTC as the sole registered owner of the Bonds. DTC and its Participants are solely responsible for payments to the Beneficial Owners.

In the event the use of the book-entry-only system is discontinued, principal of the Bonds will be payable upon surrender thereof at the principal corporate trust office of the Trustee in [_____]. Interest payable on the Bonds will be paid by check mailed on the Interest Payment Date to the person in whose name each Bond is registered in the registration books maintained by the Trustee as of the applicable Record Date for such Interest Payment Date, in accordance with the provisions set forth in the Indenture.

A more detailed description of the Book-Entry Only System is contained in Appendix D — "DTC AND THE BOOK-ENTRY ONLY SYSTEM" attached hereto.

Redemption Provisions

Optional Redemption

The Bonds maturing on or before December 1, ____ are not subject to optional redemption prior to maturity. The Bonds maturing on of after December 1, ____ are subject to optional redemption prior to maturity on or after December 1, ____ at the sole option of the Port Commission, as a whole or in part, on any date (from such maturities as are selected by the Port Commission and by lot within a maturity if less than all of the Bonds of such maturity are selected for redemption), from any source of available funds, at redemption prices equal to the principal amount thereof plus accrued but unpaid interest thereon to the date fixed for redemption.

Mandatory Sinking Fund Redemption. The [Series 2009_ Bonds] maturing on or before December 1, 20__ are subject to redemption prior to stated maturity dates, in part, by lot, from mandatory sinking fund payments, at a redemption price equal to the principal amount thereof, without premium, plus accrued interest thereof, on December 1 in each of the years in the following amounts:

Mandatory Sinking Fund Payment Date December 1	**Sinking Fund Payment**
	$

* Maturity

Notice of Redemption. The Trustee is required to send a Notice of redemption to the Owners of the Bonds selected for redemption by Electronic Notice or first class mail, postage prepaid, at least 30 days but no more than 45 days prior to the redemption date, at their addresses appearing in the registration books maintained by the Trustee. However, so long as any Bonds are in book-entry form through the facilities of DTC, notice of redemption will be provided to Cede & Co., as the registered owner of the Bonds, and not directly to the Beneficial Owners.

Each notice of redemption will specify: (i) the series maturity dates of the Bonds, or lots within a maturity (if only a portion of the Bonds of a selected maturity are to be redeemed) to be redeemed; (ii) the date of the redemption; (iii) the place or places where the redemption will be made, including the name and address of the Trustee; (iv) the redemption price; and (v) the CUSIP numbers, if any, assigned to the Bonds to be redeemed.

Neither the failure to receive any redemption notice nor any defect in such redemption notice so given shall affect the sufficiency of the proceedings for such redemption of the Bonds.

Conditional Notice: Cancellation of Optional Redemption. The Trustee, at the direction of Port Commission, may provide a conditional notice of redemption, and such notice shall specify its conditional status.

If any of the Bonds are subject to optional redemption, and the Trustee does not have sufficient moneys on deposit to redeem the principal, plus the applicable premium (if any) represented by all of the Bonds proposed to be redeemed on the dated fixed for redemption, plus the interest with respect thereto; the redemption shall be canceled and in each and every case the Port Commission, the Trustee, and the Owners, as the case may be, shall be restored to their former positions and rights under the Indenture. Such a cancellation of a redemption will not constitute a default under the Indenture, and the Trustee and the Port Commission shall have no liability from such a cancellation. In the event of such a cancellation, the Trustee shall send notice of such cancellation to the Owners in the same manner as the related notice of redemption.

Selection of the Bonds for Redemption. Whenever provision is made in the Indenture for the redemption of the Bonds (other than from the Sinking Fund Installments) and less than all of the Outstanding Bonds are to be redeemed, the Port Commission will designate the maturity or maturities to be redeemed and specify to the Trustee

the principal amount in each maturity to be redeemed. Whenever less than all of the Outstanding Bonds maturing on any one date are called for redemption, the Trustee will select the portions to be redeemed by lot in a manner the Trustee deems fair and appropriate.

Effect of Notice of Redemption.. When a notice of redemption has been duly given as provided in the Indenture and sufficient moneys for the redemption of the Bonds selected for redemption, together with accrued interest to such redemption date are held by the Trustee; then, from and after such redemption date, interest on the Bonds selected for redemption will cease to accrue, and all such Bonds will cease to be entitled to any benefit or security under the Indenture, except for the right of the Owners to receive payment of the redemption price thereof.

ESTIMATED SOURCES AND USES OF FUNDS

Proceeds of the Bonds, and other available amounts, are expected to be applied approximately as set forth below:

	Series 2009A	**Series 2009B**	**Total**
Sources			
Bond Proceeds.	$	$	$
Net Original Issue Premium			
Total Sources of Funds	$	$	$
Uses			
Deposit to Series 2009 Bond Projects Fund	$	$	$
Deposit to Reserve Fund			
Costs of Issuance*			
Underwriter's Discount			
Total Uses of Funds	$	$	$

* Including amounts for rating agency fees, fees for legal services, Trustee's fees and expenses, printing costs, and other costs relating to the issuance of the Bonds.

DEBT SERVICE SCHEDULE

Set forth below are the annual principal, interest and total debt service requirements for the Bonds:

Fiscal Year Ended June 30	Series 2009A Bonds Principal	Series 2009A Bonds Interest	Series 2009B Bonds Principal	Series 2009B Bonds Interest	Total Debt Service
	$	$	$	$	$
TOTAL	$	$	$	$	$

SERIES 2009 PROJECTS

The Port Commission will apply a portion of the proceeds of the Bonds to finance the planning, design, acquisition, construction, reconstruction, rehabilitation or improvement of the Series 2009 Projects. A brief description of the Series 2009 Projects expected to be funded with the proceeds of the Bonds is set forth below. These descriptions are not intended to and do not constitute a commitment by the Port Commission to finance or complete any particular project.

Piers are numbered from the Ferry Building located at Market Street and the Embarcadero, with odd numbered piers going north (with the highest numbers the furthest north) and even numbered piers going south (with the highest number the furthest south). See the map located at the front of this Official Statement.

Pier 27 Cruise Terminal

A new, state of the art, sustainable, multi use cruise terminal is proposed at Pier 27. The project includes (1) converting the existing pier and maritime shed for use as a primary, single berth cruise terminal, (2) constructing the two acre Northeast Wharf Plaza on the western corner of Pier 27, and (3) constructing a 3,500 square foot restaurant adjacent to the Northeast Wharf Plaza. Construction is anticipated to commence the first quarter of 2012 and be completed the first quarter of 2014. The estimated project budget is between $60 to $80 million, of which $10 million to cover planning and design costs is expected to be financed with proceeds of the Bonds. The balance of the project costs are expected to be funded through a combination of property sale proceeds and proceeds of a future Port revenue bonds.

Pier 90-94 Backlands Improvements

The Pier 90-94 Backlands is a 47-acre expanse of largely undeveloped land with uneven terrain. The planned improvements include new roads, utilities and storm water management that will allow the Port to divide the land into plots to be leased to tenants. The project is currently in the design phase, with construction expected to be completed by the end of 2010. The Port estimates that it will receive an additional $2.5 million annually in lease revenues by Fiscal Year 2014-15 as a result of the proposed improvements to the Backlands. The project budget is $8 million, all of which is expected to be financed with proceeds of the Bonds.

Pier 19 or 23

Either Pier 19 or Pier 23 will be selected for repairs and upgrades to facilitate the creation of rentable office and/or retail space and public access. The project is currently in the planning and design phase, with construction expected to commence by the end of 2012 and be completed in the first quarter of 2014. The total project budget is estimated at $18 million, of which $2 million to cover planning and design costs is expected to be financed with proceeds of the Bonds. The balance of the project costs are expected to be funded using proceeds of a future Port revenue bond issuance.

Pier 33

Pier 33 is located in the northern waterfront adjacent to the Port's current cruise terminal at Pier 35 and houses rentable waterfront space. Bond proceeds are expected to be used to finance the construction of improvements to the structure on the pier to facilitate the leasing of the second floor space, which currently is not leasable. The project is currently in the design phase, with construction expected to commence during the fall of 2010 and be completed August 2011. The estimated project construction budget is $2 million, all of which will be financed with proceeds of the Bonds.

Other Series 2009 Projects

Other Series 2009 Projects include the design and construction of structural repairs to and fumigation of Pier 35, the Port's current cruise terminal; the replacement of the roof at Pier 19, an underutilized Pier on the northern waterfront; and repairs to the substructure supporting a roadway providing access to Pier 50 for tenants and the Port's Maintenance Division.

SECURITY AND SOURCES OF PAYMENT FOR THE BONDS

Special, Limited Obligations

The Bonds are special, limited obligations of the Port Commission secured by and payable solely from Net Revenue (as defined in the Indenture) and from moneys held in certain funds and accounts established pursuant to the Indenture. The Bonds are not a debt or obligation of the City and County of San Francisco, the State of California or any political subdivision thereof (other than the Port Commission payable solely from Net Revenue).

Neither the credit nor the taxing power of the City and County of San Francisco, the State of California or any political subdivision thereof is pledged to pay the principal of and interest on the Bonds. The Port Commission has no taxing power.

Pledge of Net Revenue Under the Indenture

The Indenture provides that the Bonds shall be payable as to principal, premium, if any, and interest exclusively from, and shall be secured by a pledge of, first lien on and security interest in Net Revenue. "Net Revenue" is defined under the Indenture to mean Revenue (as defined below) less Operation and Maintenance Expenses (as defined below). Under the Indenture, for the benefit of the Bondholders, the Port Commission also grants a first lien on and security interest in, amounts on deposit from time to time in the Funds and Accounts created pursuant to the

Indenture, subject to the provisions of the Indenture and any Supplemental Indenture permitting the application of such amounts for the purposes and on the terms and conditions set forth in the Indenture.

"Revenue" is defined under the Indenture to all revenue earned by the Port Commission from or with respect to its management, supervision, operation and control of the Port Area, as determined in accordance with generally accepted accounting principles. Revenues shall include revenues available to the Port Commission from any district established pursuant to Chapter 2.8 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California or a similar law ("IFD Revenues") to the extent permitted by law and designated as Revenues in a Supplemental Indenture. Revenue shall not include: (a) Special Facility Revenue (as described herein) and any interest income or profit realized from the investment thereof, unless such receipts are designated as Revenue by the Port Commission, (b) grants-in-aid, donations and/or bequests, which by their terms would be restricted to uses inconsistent with the purposes provided hereunder or (c) IFD Revenues unless designated by the Port Commission as Revenues in a Supplemental Indenture.

The Port Commission currently does not derive revenue from any facility classifiable as "Special Facility Revenue" under the Indenture and does not have any "Special Facility Bonds" outstanding.

"Operation and Maintenance Expenses" is defined under the Indenture to mean, for any period, all expenses of the Port Commission incurred for the operation and maintenance of the Port Area, as determined in accordance with generally accepted accounting principles. Operation and Maintenance Expenses do not include: (a) the principal of, premium, if any, or interest (including capitalized interest) on any Bonds, Subordinate Bonds, general obligation bonds issued by the City for Port Area purposes or other Port indebtedness; (b) any allowance for amortization, depreciation or obsolescence of the Port Area; (c) any expense for which, or to the extent to which, the Port Commission is or will be paid or reimbursed from or through any source that is not included or includable as Revenue, including, but not limited to, Special Facility Revenue; (d) any extraordinary items arising from the early extinguishment of debt; (e) any costs, or charges made therefor, for capital additions, replacements, betterments, extensions or improvements to the Port Area which, under generally accepted accounting principles, are properly chargeable to the capital account or any reserves for depreciation; (f) any losses from the sale, abandonment, reclassification, revaluation or other disposition of any Port Area properties; (g) items that are unusual or unrelated to the Port Commission's ordinary activities and would occur infrequently, including but not limited to litigation settlements or awards or other items not included in the annual budget or non-cash items paid over a number of years; (h) non-cash expenses arising from pension and post-employment pension benefits; and (i) dredging costs. Operation and Maintenance Expenses include the payment of pension charges and proportionate payments to such compensation and other insurance or outside reserve funds as the Port Commission may establish or the Board of Supervisors may require with respect to employees of the Port Commission.

Application of Revenue Under the Charter and Indenture

Under the Charter and the Indenture, all Revenue as received is required to be set aside and deposited by the Treasurer of the City in the San Francisco Harbor Trust Fund (the "Enterprise Fund").

The Charter provides that moneys in the Enterprise Fund shall be applied by the City Treasurer for the following purposes in the following order of priority:

(a) for the payment of maintenance and operating expenses, pension charges and proportionate payments to such compensation and other insurance and accident reserve funds as the Port Commission may establish or the Board of Supervisors may require;

(b) for the payment of principal, interest, reserve funds, sinking funds, and other funds established for the benefit of any forms of indebtedness issued or undertaken by or on behalf of the Port Commission for any purpose authorized under the Charter, including, but not limited to, revenue bonds, general obligation bonds, Infrastructure Financing District bonds, certificates of participation, lease revenue bonds, commercial paper, variable rate demand notes, auction rate securities, bond anticipation notes and other evidences of indebtedness;

(c) for capital improvements to, and reconstruction and replacement of, the properties, equipment and facilities of the harbor, and

(d) to establish a reserve, surplus or sinking fund for harbor operations, capital improvements, reconstruction, and replacement of equipment or facilities used in connection thereto as the Port Commission may establish.

In conformity with the priorities established under the Charter, the Indenture provides that moneys in the Enterprise Fund shall be applied by the Treasurer for the following purposes and in the following amounts and order of priority, each priority to be fully satisfied before the next priority:

(a) *Operation and Maintenance Expenses and Payments on Prior Lien Bonds.* An amount equal to the Operation and Maintenance Expenses as the same become due.

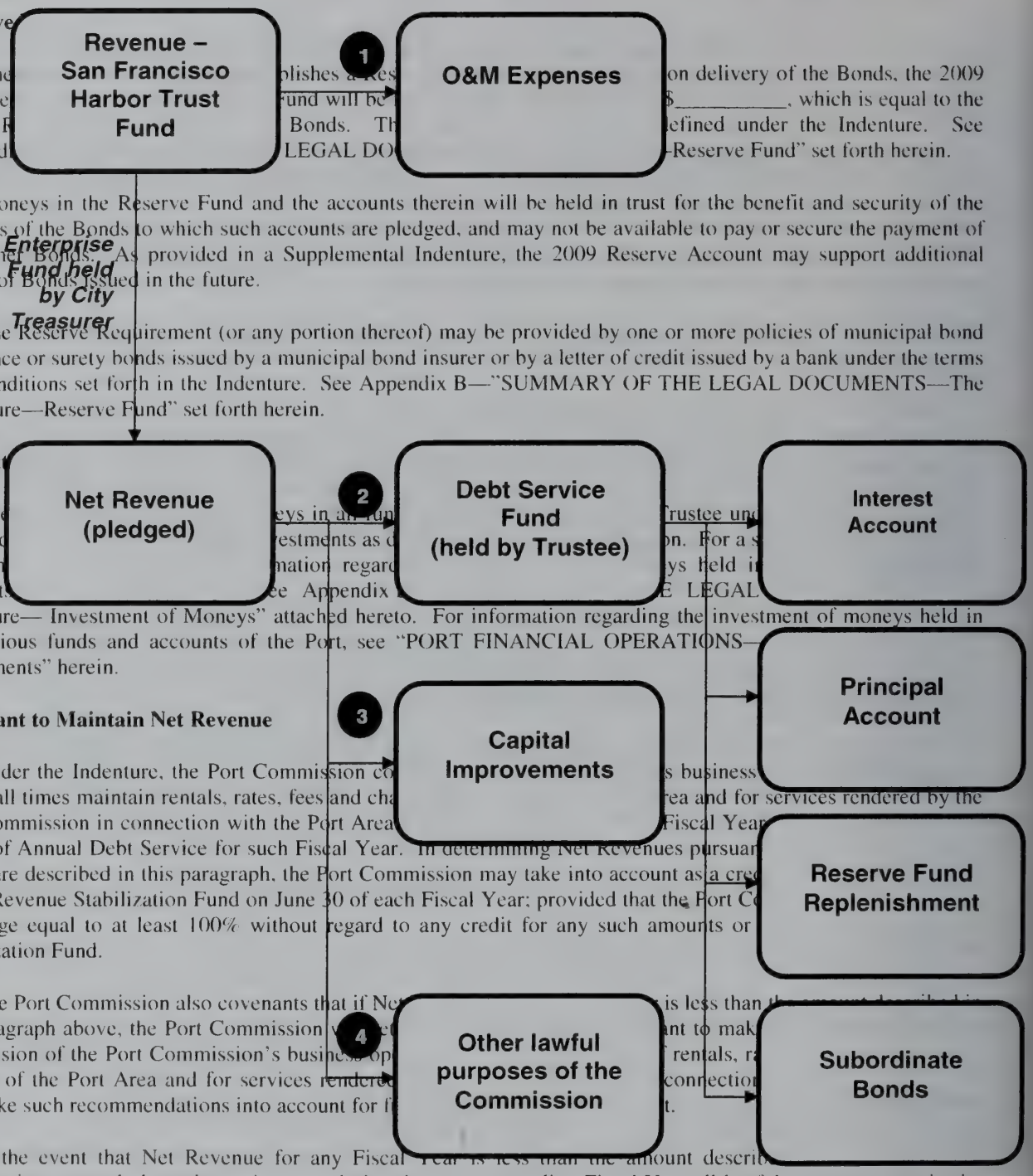
(b) *Debt Service Fund Transfer.* To the Trustee for deposit in the Debt Service Fund such amount as shall be necessary:

(i) to make all payments and deposits required to be made into the Debt Service Fund and the Reserve Fund with respect to the payment of Bonds (as further described below) and the payment or reimbursement of a Credit Provider for Repayment Obligations to the extent provided in the Indenture or in the Supplemental Indentures with respect thereto (in addition, if and to the extent provided for in any Supplemental Indenture authorizing the issuance of a Series of Bonds, Swap Payments may be paid directly out of, and Swap Receipts paid directly into, the account or accounts in the Debt Service Fund established with respect to such Series of Bonds); and

(ii) to make all payments and deposits required to be made into any funds and accounts created to pay or secure the payment of the Principal Amount or purchase price of or interest or redemption premium on any Subordinate Bonds in the amounts and at the times required by the resolutions and other agreements authorizing the issuance and providing the terms and conditions thereof.

Flow of Funds. The following is a graphic presentation of the flow of funds under the Charter and the Indenture (as described above) for Port revenues:

FLOW OF FUNDS



Reserve

The plishes a Res on delivery of the Bonds, the 2009 Reserve Fund will be $_____, which is equal to the initial R Bonds. Th efined under the Indenture. See Append LEGAL DO -Reserve Fund" set forth herein.

Moneys in the Reserve Fund and the accounts therein will be held in trust for the benefit and security of the Holders of the Bonds to which such accounts are pledged, and may not be available to pay or secure the payment of any other Bonds. As provided in a Supplemental Indenture, the 2009 Reserve Account may support additional Series of Bonds issued in the future.

The Reserve Requirement (or any portion thereof) may be provided by one or more policies of municipal bond insurance or surety bonds issued by a municipal bond insurer or by a letter of credit issued by a bank under the terms and conditions set forth in the Indenture. See Appendix B—"SUMMARY OF THE LEGAL DOCUMENTS—The Indenture—Reserve Fund" set forth herein.

Permitt

The eys in an fun Trustee un invested estments as d on. For a s of Perm mation regard ys held i account ee Appendix E LEGAL Indenture— Investment of Moneys" attached hereto. For information regarding the investment of moneys held in the various funds and accounts of the Port, see "PORT FINANCIAL OPERATIONS— Investments" herein.

Covenant to Maintain Net Revenue

Under the Indenture, the Port Commission co s business and at all times maintain rentals, rates, fees and cha rea and for services rendered by the Port Commission in connection with the Port Area Fiscal Year 130% of Annual Debt Service for such Fiscal Year. In determining Net Revenues pursuan Indenture described in this paragraph, the Port Commission may take into account as a cre in the Revenue Stabilization Fund on June 30 of each Fiscal Year; provided that the Port C Coverage equal to at least 100% without regard to any credit for any such amounts or Stabilization Fund.

The Port Commission also covenants that if Ne is less than the paragraph above, the Port Commission nt to mak the revision of the Port Commission's busine op rentals, r the use of the Port Area and for services rendere connectio shall take such recommendations into account for f t.

In the event that Net Revenue for any Fiscal Year is less than the amount descrit Commission promptly has taken prior to or during the next succeeding Fiscal Year all lawful measures to revise its business operations and/or its schedule of rentals, rates, fees and charges as required by the Indenture, such deficiency in Net Revenue shall not constitute an Event of Default under the Indenture. Nevertheless, if after taking the measures required by the Indenture to revise its business operations and/or its schedule of rentals, rates, fees and charges, Net Revenue in such next succeeding Fiscal Year (as evidenced by the audited financial statements of the Port Commission for such Fiscal Year) is less than the amount described above, such deficiency in Net Revenue shall constitute an Event of Default.

See "CERTAIN RISK FACTORS" herein for a description of certain risk factors that could adversely affect the ability of the Port to maintain Net Revenue as required by the Indenture.

Additional Bonds and Other Indebtedness

Pursuant to the Indenture, the Port Commission is permitted to issue additional bonds and to enter into additional obligations secured by Net Revenue on a parity with the payment of principal of and interest on the Bonds, provided that the conditions described below are satisfied.

Additional Bonds. The Port Commission may not issue any additional Series of Bonds (other than refunding Bonds as described below) unless the Trustee has been provided with, among other things, a report of the Port Commission demonstrating that for the period from and including the first full Fiscal Year following the issuance of such Bonds during which no interest on such Bonds is expected to be paid from the proceeds thereof through and including the later of (A) the fifth full Fiscal Year following the issuance of such Bonds or (B) the third full Fiscal Year during which no interest on such Bonds is expected to be paid from the proceeds thereof, projected Net Revenue in each such Fiscal Year will be at least sufficient to satisfy the rate covenants set forth in the Indenture. See "—Covenant to Maintain Net Revenue" above.

In determining projected Net Revenue for purposes of the report of the Port Commission described in the paragraph above, the Port Commission may take into account any reasonably anticipated changes in Revenue and Operation and Maintenance Expenses over such period, which assumed changes and the basis therefor shall be described in the calculations provided by the Port Commission. In determining Annual Debt Service for such purposes, (i) Bonds that will be paid or discharged immediately after the issuance of the Series of Bonds proposed to be issued from the proceeds thereof or other moneys shall be disregarded, and (ii) Variable Rate Bonds and variable rate Interest Rate Swaps shall generally be deemed to bear interest during any period after the date of calculation at a fixed annual rate equal to the lower of one hundred twenty-five percent of the average Index Rate (i.e., generally defined under the Indenture as the *Bond Buyer* 25-Bond Revenue Index) during the twelve calendar months immediately preceding the date on which such calculation is made or the maximum rate of interest payable under such Bonds or Interest Rate Swaps. The Port Commission may also take into account as a credit amounts expected to be on deposit in the Revenue Stabilization Fund on June 30 of each Fiscal Year; provided that the Port Commission shall maintain Coverage under the provisions of the Indenture summarized above under "—Covenant to Maintain Net Revenue" equal to at least 100% without regard to any credit for any such amounts on deposit in the Revenue Stabilization Fund.

The Port Commission may also issue Bonds for the purpose of refunding any Bonds or Subordinate Bonds on or prior to maturity.

Other Indebtedness. The Port Commission has a loan from a state agency in a principal amount of $2,918,607, payable from Net Revenue on a basis subordinate to the Bonds. See "SECURITY AND SOURCES OF PAYMENT FOR THE BONDS— Application of Revenue Under the Charter and Indenture—Flow of Funds."

Repayment Obligations as Bonds. If so provided in the applicable Supplemental Indenture and in the written agreement between the Port Commission and a Credit Provider, a Repayment Obligation (other than a Repayment Obligation with respect to a Credit Facility credited to the Reserve Fund) may be accorded the status of an obligation payable on a parity from Net Revenue with the Bonds for purposes of securing such Repayment Obligation under the Indenture. The foregoing rights of a Credit Provider are in addition to any rights of subrogation which the Credit Provider may otherwise have or be granted under law or pursuant to any Supplemental Indenture.

Interest Rate Swaps as Bonds. If so provided in the applicable Supplemental Indenture and in the written agreement establishing an Interest Rate Swap between the Port Commission and a Swap Counter Party, a Swap Payment may be accorded the status of an obligation payable on a parity from Net Revenue with the Bonds for purposes of securing such obligation to make Swap Payments under the Indenture. Notwithstanding the foregoing, in no event shall any termination payments due with respect to any Interest Rate Swap be payable from Net Revenue on a parity with the Bonds, unless such termination payments are insured by a Credit Facility that (i) has a term of

the same duration as the term of the Interest Rate Swap and (ii) is provided by a Credit Provider with long-term credit ratings in the highest rating categories of the Rating Agencies then rating the Bonds.

Special Facilities and Special Facility Bonds. The Port Commission from time to time, subject to the terms and conditions of the Indenture and all applicable laws, may (a) designate an existing or planned facility, structure, equipment or other property, real or personal, which is located within the Port Area or part of any facility or structure at the Port Area as a " Special Facility," (b) provide that revenues earned by the Port Commission from or with respect to such Special Facility shall constitute "Special Facility Revenue" and shall not be included as Revenue, and (c) issue Special Facility Bonds primarily for the purpose of acquiring, constructing, renovating or improving, or providing financing to a third party to acquire, construct, renovate or improve, such Special Facility. The Special Facility Bonds shall be payable as to principal, purchase price, if any, redemption premium, if any, and interest from and secured by the Special Facility Revenue with respect thereto, and not from or by Net Revenue. The Port Commission from time to time may refinance any such Special Facility Bonds with other Special Facility Bonds.

No Special Facility Bonds may be issued by the Port Commission unless there shall have been filed with the Trustee (i) a certificate of the Port Commission to the effect that no Event of Default then exists under the Indenture, (ii) an opinion of Bond Counsel to the effect that such Special Facility Bonds may lawfully be issued in accordance with the Charter and all other applicable laws and (iii) a report of a Financial Consultant verifying the following calculations made by the Port Commission:

(a) the estimated Special Facility Revenue with respect to the proposed Special Facility are at least sufficient to pay the principal (either at maturity or by mandatory sinking fund redemptions) or purchase price of and interest on such Special Facility Bonds as and when the same shall become due, all costs of operating and maintaining such Special Facility to be paid by the Port Commission, and all sinking fund, reserve fund and other payments required with respect to such Special Facility Bonds as and when the same will become due; and,

(b) the estimated Net Revenue calculated without including the Special Facility Revenue and without including any operation and maintenance expenses of the Special Facility as Operation and Maintenance Expenses will be sufficient so that the Port Commission will be in compliance with the rate covenant under the Indenture (see "Covenant to Maintain Net Revenue" above) during each of the five full Fiscal Years immediately following the issuance of such Special Facility Bonds.

At such time as the Special Facility Bonds issued for a Special Facility, including Special Facility Bonds issued to refinance such Special Facility Bonds, are fully paid or otherwise discharged and no longer outstanding, the Special Facility Revenue with respect to such Special Facility shall be included as Revenue.

Subordinate Bonds. Under the Charter, no voter approval is required with respect to revenue bonds authorized and issued by the Port Commission for any Port-related purpose and secured solely by Port revenues. See "Additional Bonds Test" above. Under the Indenture, the Port Commission may issue at any time Subordinate Bonds with a pledge of, lien on, and security interest in Net Revenue which are junior and subordinate to those of the Bonds. The principal and purchase price of and interest, redemption premium and reserve fund requirements on such Subordinate Bonds are payable from time to time out of Net Revenue only if all amounts then required to have been paid or deposited under the Indenture from Net Revenue with respect to principal, purchase price, redemption premium, interest and reserve fund requirements on the Bonds then Outstanding shall have been paid or deposited as required in the Indenture.

THE CITY AND COUNTY OF SAN FRANCISCO

The City is the economic and cultural center of the San Francisco Bay Area and northern California. The corporate limits of the City encompass over 93 square miles, of which 49 square miles are land, with the balance consisting of tidelands and a portion of the San Francisco Bay (the "Bay"). The City is located at the northern tip of the San Francisco Peninsula, bounded by the Pacific Ocean to the west, the Bay to the east, the entrance to the Bay and the Golden Gate Bridge to the north, and San Mateo County to the south. Silicon Valley is about a 40-minute drive to the south, and the wine country, about an hour's drive to the north. The City's population in 2008 was approximately 774,000, making it the fourth largest city in the State.

The City is the economic center of the nine counties contiguous to the Bay: Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano and Sonoma Counties (collectively, the "Bay Area"). The economy of the Bay Area includes a wide range of industries, supplying local needs as well as the needs of national and international markets. Major business sectors in the Bay Area include retail, entertainment and the arts, conventions and tourism, service businesses, banking, professional and financial services, corporate headquarters, international and wholesale trade, multimedia and advertising, biotechnology and higher education.

The City is a major convention and tourist destination and, according to the San Francisco Convention & Visitors Bureau, a nonprofit membership organization, during the calendar year 2008 approximately 16.4 million people visited the City and spent an estimated $8.5 billion. The City is also a leading center for financial activity in California and is the headquarters of the Twelfth Federal Reserve District, Eleventh District Federal Home Loan Bank, and the regional Office of Thrift Supervision.

The City benefits from a highly skilled, educated and professional labor force. The per-capita personal income of the City for 2008 was approximately $74,500. The San Francisco Unified School District operates 71 elementary school sites, 15 middle schools, 19 senior high schools, one adult education program and 28 state-funded preschool sites, and sponsors ten independent charter schools. The University of San Francisco, California State University-San Francisco, University of California-San Francisco (a medical school and health science campus), Hastings College of the Law, the University of the Pacific's School of Dentistry, Golden Gate University and City College of San Francisco (a public community college) are all located in the City.

San Francisco International Airport ("SFO"), located 14 miles south of downtown San Francisco in an unincorporated area of San Mateo County and owned and operated by the City, is the principal commercial service airport for the Bay Area and one of the nation's principal gateways for Pacific traffic. In Fiscal Year 2007-08, SFO serviced approximately 36.7 million passengers and handled 550,547 metric tons of cargo. The City is also served by the Bay Area Rapid Transit District (a commuter rail line that links the City with areas south, east and north and provides a transit connection to SFO and the Oakland International Airport), Caltrain (a commuter rail line linking the City with the San Francisco Peninsula), and San Francisco Municipal Railway (a bus and streetcar service within the City that is operated by the City).

The City is governed by a Board of Supervisors (the "Board of Supervisors") elected from eleven districts to serve four-year terms, and a Mayor who serves as chief executive officer, elected citywide to a four-year term. Gavin Newsom has served as the Mayor of the City since 2004. The City's Fiscal Year 2009-10 adopted budget includes $6.6 billion of expenditures and reserves, of which $2.9 billion was allocated to the General Fund of the City and $3.7 billion was allocated to all other funds, including enterprise fund departments, such as the Port, SFO, San Francisco Municipal Transportation Authority, and the San Francisco Public Utilities Commission. The City employs approximately 31,000 full-time-equivalent employees. Fiscal Year 2009-10 total assessed valuation of taxable property in the City is approximately $157.6 billion.

THE GENERAL FUND OF THE CITY IS NOT LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS, AND NEITHER THE CREDIT NOR THE TAXING POWER OF THE CITY IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS. THE BONDS ARE NOT SECURED BY A LEGAL OR EQUITABLE PLEDGE OF, OR CHARGE, LIEN, OR ENCUMBRANCE UPON, ANY OF THE PROPERTY OF THE CITY.

THE PORT OF SAN FRANCISCO

Introduction and Overview

The State transferred the Port to the City in 1969 pursuant to California Statutes of 1968, Chapter 1333 (the "Burton Act"). The Burton Act and related Transfer Agreement require the City to manage the Port in trust for the State consistent with public trust laws, including limitations on the uses of Port property to those that are water-dependent or water-related, but not necessarily revenue-generating, such as commerce, industry, fisheries, navigation, environmental preservation and recreation. In addition, the Burton Act requires the City to use all of the revenues generated from Port property to operate, maintain and develop the Port. See Appendix F — "SUMMARY OF THE BURTON ACT, TRANSFER AGREEMENT AND RELATED STATE LEGISLATION."

The Port Commission was established to govern the Port pursuant to the City Charter and in conformity with the Burton Act. The mission of the Port Commission is to promote a balance of maritime, recreational, industrial, transportation, public access and commercial activities on a self-supporting basis through appropriate management and development of the waterfront for the benefit of the public.

The Port area consists of seven and one-half miles of waterfront property adjacent to the Bay, from Hyde Street Pier south to India Basin, including more than 600 acres, consisting of ___ acres of landside property and _____ acres of waterside property. The Port is one of the most diverse ports in the nation. Commercial operations on Port property include restaurants, retail shopping, ferry service, commercial fishing, Bay excursion, professional sports, bulk cargo, and cruise ship calls and repair. To support these operations, the Port owns or has responsibility for the maintenance of a great number of capital assets, including 39 pile-supported pier structures, 80 substructures (of both piers and marginal wharves between piers), 245 commercial and industrial buildings, over three miles of streets and sidewalks, and elements of the utility infrastructure that support them, as well as drydocks, cargo cranes and heavy equipment used by the Port's maintenance division. The Port Commission is lessor of approximately 550 ground, commercial, retail, office, industrial and maritime industrial leases, including leases of many internationally recognized landmarks such as Fisherman's Wharf, Pier 39, the Ferry Building, and AT&T Park (home of the San Francisco Giants baseball team). See "PORT REAL ESTATE PORTFOLIO".

Port activities, the use of Port property and facilities and development and rehabilitation of Port assets are subject to a number of constraints. The constraints within which the Port must operate include those imposed by the Waterfront Land Use Plan, the Bay Conservation and Development Commission (through its Seaport and Special Area Plans), the California Environmental Quality Act and other state environmental regulations, the California State Lands Commission (interpreting public trust law), the Burton Act, the Transfer Agreement, the San Francisco Board of Supervisors, the City Charter and Administrative Codes, federal regulation, Port tenants, and community interest groups and certain Port piers, buildings and other structures are also subject to regulations due to their historic significance. See "—Regulatory Environment and Compliance".

Most capital assets comprising the Port range from 40 to 100 years old, were constructed for use in the cargo shipping industry as it existed at the time and are reaching the end of their useful structural life. When the State transferred responsibility for the Port to the City, the Port capital assets were already in a state of disrepair. For example, of the 54 Port piers transferred, 23 were virtually unusable for maritime purposes because of their poor physical condition. Of the 39 piers currently in use by the Port or Port tenants, only nine have been rehabilitated since 1950. The piers that were structurally sound at the time of transfer were only marginally productive because containerized shipping was already replacing breakbulk (e.g., bagged, boxed, crated or palletized) shipping as the primary mode of cargo shipping at that time. Containerized shipping requires significant acreage of land and access to rail and truck transportation facilities that the Port lacks given its proximity to the City. Therefore, the Port Commission has been working to transition Port facilities from primarily cargo-serving uses to mixed uses including more non-cargo related maritime uses, retail, restaurants, and office space. The Port's Ten-Year Capital Plan, adopted in 2006 and updated in 2009, identifies the Port's capital needs, to be addressed through a variety of funding sources. See "PORT CAPITAL PLAN AND DEVELOPMENT STRATEGY".

Port Commissioners

The Port Commission governs the Port. The five Port Commissioners, appointed by the Mayor and subject to confirmation by the Board of Supervisors of the City, serve four-year terms and elect the Port Commission President and Vice-President to one-year terms. Through resolutions and directives, the Port Commission sets policy for the Port.

The current members of the Port Commission and the appointment and expiration dates of their terms are:

Name and Title	Originally Appointed	Term Expires
Rodney Fong, President	November 2006	May 2010
Stephanie Shakofsky, Vice President	April 2007	May 2010
Kimberly Brandon	August 1997	May 2013
Michael Hardeman	September 1994	May 2010
Ann Lazarus	May 2004	May 2012

Executive Director and Operating Divisions

The policies set by the Port Commission are implemented by the Port's Executive Director and staff. The Executive Director acts as chief executive of the Port, is appointed by the Mayor, serves at the pleasure of the Port Commission, and is charged with the management of all the offices and activities placed under the jurisdiction of the Port Commission. The staff of the Port Commission organized into the following divisions: Maritime; Real Estate; Planning and Development; Engineering; Maintenance; and Finance and Administration. In addition, the Executive Director oversees the Communications Division, Homeland Security Division and Special Projects Division.

Monique Moyer, Executive Director. Monique Moyer is the Executive Director of the Port of San Francisco, appointed by Mayor Gavin Newsom and confirmed by the Port Commission in April 2004. She is the second woman to serve as Executive Director in the Port's 146-year history. Prior to joining the Port, Ms. Moyer served the City for seven years as the Director of the Mayor's Office of Public Finance & Business Affairs. Ms. Moyer sits on the executive boards of the California Association of Port Authorities, the American Association of Port Authorities the San Francisco Tourism Improvement District, the Government Finance Officer's Association, the Mid-Peninsula Housing Coalition and the Emerald Bowl. Ms. Moyer is the recipient of the San Francisco Chamber of Commerce 2002 Public Managerial Leadership Award. In 2005, 2006, 2007, 2008 and 2009, Ms. Moyer was named as one of the Most Influential Women in Bay Area Public Service by the San Francisco Business Times.

Robert A. Bryan, Deputy City Attorney and Port General Counsel. Robert A. Bryan joined the Port's executive staff in March 2006 as the Port's General Counsel. He has been a Deputy City Attorney in the City Attorney's Office of San Francisco since July 1996. As the Port's General Counsel, Mr. Bryan provides advice on a range of legal matters including contracts, real estate, public trust, environmental, California Environmental Quality Act ("CEQA") and land use, and public meeting laws and rules. Prior to working as General Counsel to the Port, Mr. Bryan was General Counsel to the Office of Contract Administration from February 2003 to March 2006; General Counsel to the Municipal Transportation Agency from June 1998 to February 2003; and counsel to the City's Real Estate Department from July 1996 to June 1998. Mr. Bryan also served as General Counsel to the Southeast Community Facility Commission from August 1996 to September 2004. Before joining the City Attorney's Office, Mr. Bryan was an associate at private law firms, where his practice focused on environmental law, land use, and CPUC regulatory matters.

Edward Byrne, Chief Harbor Engineer. Edward Byrne has served as Chief Harbor Engineer for the Port since September 2003. He is responsible for developing, planning and directing the work of the Port's Engineering Division. Mr. Byrne manages more than 25 employees, and he also is responsible for developing regulatory procedures, overseeing Port plan checking and inspection and providing building code interpretations. Mr. Byrne has more than 35 years of experience in engineering design, supervision and management. He started with the Port as a Structural Engineer in 1994 and he also has held the positions of Senior Civil Engineer and Acting Chief Harbor Engineer for the Port. Prior to joining the Port, Mr. Byrne worked for more than twenty years in the Civil and Structural Engineering and Architectural Department at a private engineering and construction firm. Mr. Byrne is a registered Civil and Structural Engineer in California.

Thomas Wm. Carter, Deputy Director of Maintenance. Thomas Wm. Carter has served as Deputy Director of Maintenance for the Port since December 2004. He is responsible for directing and managing maintenance services for all Port facilities and providing the overall evaluation, direction, planning and management of services for the Port's Maintenance Division. Prior to joining the Port, Mr. Carter held various positions at the City and its Department of Public Works, including serving as Operations Superintendent – Bureau of Street & Sewer Repair for

the Department of Public Works, the first Operations Superintendent of the Bureau of Urban Forestry, and Assistant Superintendent of the Bureau of Building Repair.

Peter A. Dailey, Deputy Director, Maritime. Peter A. Dailey has served as Deputy Director, Maritime, for the Port since 1998 and is responsible for managing and marketing the Port's varied maritime business portfolio. Mr. Dailey has been at the Port for over 22 years. Prior to his current position, Mr. Dailey was senior marketing executive at the Port with responsibility for public relations and public affairs, strategic marketing and press relations. He is a member of the San Francisco Bay Conservation and Development Commission's Seaport Planning Advisory Committee, California Association of Port Authority's Advisory Committee and Chairman of the American Association of Port Authority Cruise Committee.

Tina Olson, Deputy Director of Finance & Administration. Tina Olson has served as Deputy Director of Finance & Administration for the Port since May 2004. Ms. Olson is responsible for directing and managing all internal support services for other Port divisions and the executive staff; overseeing business services, inventory and purchasing; managing information systems, human resources, finance, accounting and infrastructure maintenance function; and formulating division-wide budget, business plan and strategic plan. Prior to joining the Port, Ms. Olson served as Manager of Budget and Finance for the Department of Public Works since 1996.

Susan Reynolds, Deputy Director of Real Estate. Susan Reynolds has served as Deputy Director of Real Estate for the Port since November 2006. She is responsible for directing, promoting and managing the Port's diverse real estate portfolio. Prior to joining the Port, Ms. Reynolds worked for eight years at the Mayor's Office of Community Development. Prior to joining the City, Ms. Reynolds spent over 25 years in the commercial banking industry.

Byron A. Rhett, Deputy Director of Planning & Development. Byron A. Rhett has served as the Deputy Director of Planning & Development for the Port since November 2000. Mr. Rhett is responsible for overseeing all planning and development activities at the Port including the implementation of large scale, mixed-use commercial, recreational and industrial projects. Prior to joining the Port, Mr. Rhett worked at the San Francisco Redevelopment Agency for over 21 years, serving as a senior project manager managing the Hunters Point Shipyard project and nearby Bayview Hunters Point neighborhood development projects. Prior to that, he worked as a planner for the City of Newark, New Jersey, the Newark Watershed Conservation and Development Corporation and Special Assistant in the City Manager's Office in Kansas City, Missouri.

Sidonie Sansom, Director of Homeland Security. Sidonie Sansom has served as Director of Homeland Security at the Port since July 2005. She is responsible for developing, directing, and implementing a comprehensive homeland security program for the Port of San Francisco. She is also responsible for the Port's emergency preparedness and response programs, and the Port's physical security programs. Before joining the Port, Ms. Sansom served as an Emergency Planner at the San Francisco International Airport where she developed exercises to test emergency response and emergent threats, as well as cross-jurisdictional, multi-agency response procedures for the airport's Water Perimeter Security Zone. Prior to that, she served in the U.S. Coast Guard, planning and leading flight operations throughout the world, in a variety of mission areas including search and rescue, anti-terrorism/threat response, law enforcement, pollution response and high latitude science. Ms. Sansom is a member of the American Association of Port Authority's Security Committee, the Port Security Caucus, the California Maritime Security Council, the California Association of Port Authority's Security Committee and the Area Maritime Security Committee.

Maritime Division. The Maritime Division is responsible for managing and marketing a wide array of maritime industries: cruise and cargo shipping, ship repair, commercial and sport fishing, ferry and excursion operations and other harbor services. The division promotes Port maritime facilities to potential and existing customers while ensuring compliance with federal security mandates and providing environmental stewardship. Areas of responsibility include cruise and cargo terminals, ferry terminals, shipyards and dry-docks, Fisherman's Wharf and Hyde Street Commercial fishing harbors, excursion terminals and harbor service facilities for pilots, tugboats, barges, layberthing and other ship services. As of June 30, 2009, the Maritime Division managed 110 tenancies, representing 7.4 million square feet and approximately $11 million in annual revenue.

Real Estate Division. The Real Estate Division is responsible for all asset management, property and lease management, marketing and leasing for the Port's commercial and industrial property along the seven and one-half

miles of San Francisco's waterfront properties that extend from Fisherman's Wharf to Bayview/Hunters Point. As of June 30, 2009, the Port had 324 commercial and industrial tenants, representing 13.9 million square feet of occupied space and approximately $52.7 million in annual revenue. This does not include leases to maritime tenants managed by the Maritime Division. Real estate asset and property management duties entail lease negotiations, lease and property administration and enforcement, and asset value enhancement.

Planning and Development Division. The Port's Planning and Development Division is responsible for the development, use and management of all Port properties. The Port's land use policies, as adopted by the Port Commission, are contained in the Waterfront Land Use Plan and its Waterfront Design and Access element. The Waterfront Land Use Plan establishes the foundation and framework for new development projects, real estate leasing and asset management, public access, open space and environmental improvements, and preservation of the Port's historic resources. Another important responsibility of the Planning and Development Division is to manage major development projects on Port property. This responsibility includes major public-private partnership development projects with a private developer partner, from the developer selection stage through the project approval and construction stage. It also includes major Port-sponsored maritime and open space projects. Finally, the Planning and Development Division provides regulatory and review responsibilities pertaining to Port building permits, leases and use proposals to ensure that proposals for Port properties comply with applicable use, design review, and environmental impact review requirements administered by a number of different government agencies.

Engineering Division. The Engineering Division provides project and construction management, engineering design, facility inspection, contracting, code compliance review and permitting services for all of the Port's facilities including piers, structures, buildings, cranes, utilities, public and private areas, development projects, streets and walkways. The Engineering Division assists and coordinates with other City Departments to assure an appropriate transition between the City and the property in the Port's jurisdiction.

Maintenance Division. The Maintenance Division is responsible for maintaining the Port's seven and one-half miles of waterfront property and maintaining the waterfront as a positive connection to the other parts of the City. More than 105 skilled craftspersons are responsible for the preservation and improvement of the Port's fishing harbors, ferry landing, public parks, cargo terminals, piers and baseball stadium. The overall maintenance performed by the Maintainence Division includes the skilled work of carpenters, electricians, painters, gardeners, pile drivers, plumbers, roofers and general laborers.

Finance and Administration Division. The Finance and Administration Division is responsible for management of Port operations and support services, including human resources, accounting, finance, contracts, information systems, and business services. Human resources includes labor and employee relations, payroll, training programs, employee recruitment and hiring, and contract compliance. Finance includes budget development and analysis, capital planning, grants, forecasting, financing, financial and risk analysis, and reporting. Accounting includes accounts payable, accounts receivable, general ledger, financial statements and managing outside audits. Information systems includes the Port's information technology equipment acquisition and maintenance, local area network, computer application development and maintenance. Business services includes purchasing, materials management, mail service, telephone system, receptionist service, administration of the Port's vehicles, and management of the Port's offices.

Regulatory Environment and Compliance

General. In addition to the Port Commission, a number of local and other regulatory agencies exercise control over Port property and activities including land use planning and development of Port properties. The Port is required to comply with the provisions of a number of federal, State, and local laws and regulations designed to protect and enhance the environment and protect public health and safety. These laws and regulations address a wide range of topics including hazardous waste management and remediation, water quality, groundwater quality, sediment quality, air quality, environmental impact analysis, oil spill prevention and clean-up, and occupational health and safety. These regulations and control measures determine many aspects of the Port's use of its existing properties, as well as new developments on Port property. Four governmental bodies are of particular importance with respect to land use planning and development issues for the Port:

(1) *State Lands Commission ("SLC")* has jurisdiction and oversight responsibilities as to the Port's obligation under the Burton Act to promote the use and development of the Port for public trust purposes of maritime-related fisheries, commerce, navigation, recreation and open space; see Appendix F— "SUMMARY OF THE BURTON ACT, TRANSFER AGREEMENT AND RELATED STATE LEGISLATION" herein.

(2) *San Francisco Bay Conservation and Development Commission ("BCDC")* was established by the California Legislature pursuant to the McAteer-Petris Act in 1965 to limit fill within the Bay, promote maximum feasible public access to the Bay, and protect the Bay and shoreline from inappropriate development. BCDC has permitting authority that applies to development and real estate leasing on the Port's pile-supported piers, and upland areas within 100 feet of the Bay. BCDC policies applicable to Port properties are contained in the San Francisco Bay Plan, the San Francisco Waterfront Special Area Plan and the Seaport Plan.

(3) *City Board of Supervisors* has legislative authority to adopt zoning ordinances and General Plan amendments (in conjunction with action by the San Francisco Planning Commission), and to hear appeals on conditional use authorizations and the CEQA documents issued by the Planning Commission. The Board of Supervisors also exercises budgetary and fiscal authority over the Port, as with all City departments, including the authority to approve non-maritime leases that exceed a ten-year term or $1 million in revenue.

(4) *San Francisco Planning Commission* is the City's established forum for review and discussion of future land use plans and development regulations and projects, for the certification of environmental impact analysis documents pursuant to CEQA, and for the performance of traditional municipal planning review of development and use proposals to ensure compliance with applicable land use regulations and planning policies.

The San Francisco Planning Code and Zoning Map classifies the majority of Port waterfront property as "M-1" (Light Industrial), "M-2," (Heavy Industrial), or "C-2" (Commercial Business). These zoning classifications permit a broad range of commercial and industrial uses and provide for "conditional use authorization" of other specified uses such as housing. While hotels are conditional uses on Port land, San Francisco voters have prohibited the construction of hotels on piers and on Port property within 100 feet of the shoreline. In addition, Port property between Fisherman's Wharf and China Basin is classified as within one of two "Waterfront Special Use Districts" established in the Planning Code, which set forth procedures for review of major non-maritime development projects by a Waterfront Design Advisory Committee. The San Francisco Zoning Map establishes a 40-foot height limit on most Port-owned property sites. The Planning Commission has a specific responsibility for certifying CEQA evaluation documents, and in reviewing and approving certain mixed-use Port development projects that include conditional uses. The Port serves as a co-applicant with its tenants or development partners in applying for and securing all required regulatory permits from other public agencies. The Port issues its own building permits.

In addition, three agencies play a significant role in regulating Port activities and have a direct impact on the Port's activities in the Bay:

(1) *U.S. Army Corps of Engineers* has jurisdiction over fill located beyond the Port's pierhead line, dredging and dredge sediment disposal by the Port;

(2) *San Francisco Regional Water Quality Control Board* is the local enforcement agency for the federal Water Pollution Control Act and the State Porter-Cologne Water Quality Act, regulating discharges into the Bay, such as wastewater from the City's wastewater treatment facilities and storm water from municipal and industrial facilities, and discharges, or potential discharges, associated with activities on Port property; and

(3) *U.S. Coast Guard* enforces laws governing the use of navigable waters, performs a vessel traffic control function for the Bay and is responsible for administering national oil spill response.

Waterfront Land Use Plan and San Francisco Waterfront Special Area Plan. The Port's ability to fund Port operations, maintain Port property and provide public access and open space improvements depends on its ability to generate revenues from the use of properties under its stewardship. In November 1990, the voters of San Francisco passed Proposition H which imposed a moratorium on non-maritime development on the Port's waterfront property pending the completion of a land use plan for the Port's piers and properties nearest to the shore. Proposition H also

banned hotel development on piers and on Port property within 100 feet of the shoreline. In response to Proposition H, the Port Commission determined to develop a compromise plan, including all Port properties, and created the Waterfront Plan Advisory Board to recommend a land use plan for Port Commission adoption. The Advisory Board included citizens; maritime, labor and neighborhood representatives; Port tenants; and architects and urban planners. After a more than six-year process of public and community meetings to discuss and consider maritime industry needs, waterfront regulations, community concerns, surrounding land uses, and financial conditions affecting Port lands, the Advisory Board completed a draft plan. In Fiscal Year 1997-98, the Port Commission and the Board of Supervisors adopted the San Francisco Waterfront Land Use Plan (the "Waterfront Land Use Plan"), and the San Francisco Planning Commission adopted conforming amendments to the City's General Plan and Planning Code. The Waterfront Land Use Plan reserves most Port properties for expansion of maritime operations, and requires creation of new public access, recreation and open space along the Bay. It also identifies sites for compatible new commercial development to improve or rehabilitate capital assets and to provide additional revenues to subsidize maritime industries, fund new public access and open spaces, and stem the continuing deterioration of the Port's aged properties.

Following local adoption of the Plan, the Port commenced discussions with the BCDC concerning the Plan and related regulatory processes. In July 2000, the Port initiated amendments to its Waterfront Land Use Plan, and BCDC began amendments to its San Francisco Bay Plan to create mutually consistent plans for the waterfront area between the Hyde Street Pier and China Basin (the San Francisco Waterfront Special Area Plan, referred to herein as the "Waterfront Special Area Plan"). To achieve the Waterfront Special Area Plan, among other things, the Port Commission committed the Port to spend at least $30 million over a 20-year period pursuant to benchmarks set forth in the Special Area Plan for the removal of certain piers and the construction of major public plazas and other public access improvements.

Under the Waterfront Special Area Plan, the Port Commission is permitted to utilize other funding sources (such as grants and contributions) to finance the required pier removals and public access improvements. However, until sufficient funding from other sources is secured, the Port must commit capital funds to meet the $30 million expenditure requirement for the Waterfront Special Area Plan projects. As of June 30, 2009, approximately $23 million had been appropriated, and $3.2 million had been expended, for the $30 million of required projects under the Waterfront Special Area Plan.

Environmental Compliance

The Port is an environmentally sensitive area with a long history of intensive commercial and industrial use, and the Port's environmental risk exposure is typical of other sites with a mix of light industrial activities dominated by transportation, transportation-related, and warehousing activities. Due to historical placement of fill of varying quality, and widespread use of aboveground and underground tanks and pipelines containing and transporting fuel, elevated levels of petroleum hydrocarbons and lead are commonly found on Port properties. Consequently, any significant construction, excavation, or other activity at the Port that disturbs soil or fill material may encounter hazardous materials and/or generate hazardous waste. Port facilities are also vulnerable to oil spills and other hazards of maritime activity.

At any given time, there may be many such projects of varying size and scope underway at the Port, and the Port may be involved in any number of regulatory proceedings involving the environmental compliance agencies referred to above, relating to environmental conditions on its many properties. The Port properties contain several sites that are or have been subject to cleanup or monitoring orders by state agencies, but none of these sites have been designated or listed as federal or state superfund sites. There are a number of sites that may require additional remediation to achieve regulatory closure and compliance. For most of these sites, entities other than the Port (i.e. the former facility operators) have been identified as primarily responsible for closure and remediation, however, in all cases, the Port, as the property owner, is also potentially liable. Certain of such matters are discussed in detail below.

Environmental compliance is managed by environmental professionals with varying backgrounds in environmental science, industrial hygiene, and regulatory analysis working within the Port's Engineering, Maintenance, Real Estate, Maritime, and Planning and Development divisions. Port environmental activities are coordinated by an Environmental Coordinating Committee that meets bi-weekly.

Port properties do not include any hazardous waste sites listed on the National Priority List by the US EPA ("Superfund sites") or the State equivalent.

Environmental problems presently identified include the following:

(1) Fisherman's Wharf, Wharf J10 – Fuel storage tank releases from fuel terminal operated from 1935 to 1992.

(2) Pier 70 – General soil and groundwater clean-up of site used by the U.S. Navy and contractors for heavy industrial uses for over 60 years and PCB contaminated soil caused by vandalism of an electrical transformer. The Port has investigated the Pier 70 property to determine an estimate of the costs of necessary remediation of environmental hazards to facilitate future development efforts. The estimate indicates that such costs could range from $15 million to $50 million.

(3) Portrero Power Plant – Poly aromatic hydrocarbon contamination from power plant site adjacent to Port property.

(4) Pier 80 – Removal of debris from concrete batch plant operated from 2001 to 2006.

(5) Pier 90 – Subsurface petroleum contamination at site historically occupied by a tank farm.

(6) Pier 94 – Landfill closure work.

(7) Various sites – Underground storage tank removal and soil and groundwater contamination remediation.

Of the other regulatory matters that are currently underway at the Port, none is currently estimated by the Port to involve a material financial risk exposure to the Port.

Environmental laws and regulations of the kind to which the Port is subject are subject to change from time to time and have generally become more stringent over time. At times such regulations impact the requirements for, and cost of, development at the Port. [Discussion of waste discharge requirements to come.]

Port tenant operations at times pose an environmental risk to the Port area. Proposed Port tenant operations are reviewed by Port staff for environmental risk, and, where appropriate, tenants are required to make an environmental oversight deposit, maintain environmental management insurance and/or conduct operations in a manner that will reduce the risk of potential environmental hazards.

There is no assurance that the costs to the Port of compliance with environmental and health and safety laws will not increase significantly in the future. In addition, the Port currently estimates that a portion of its accumulated deferred maintenance and facility improvement needs for its maritime and commercial properties are attributable to environmental compliance. It is expected that the Port will undertake these projects over the next several years as and if funding becomes available. See "CERTAIN RISK FACTORS—Condition of Port Facilities" and "—Risks Related to Environmental Liability; Hazardous Substances and Increased Environmental Regulation" herein.

PORT REAL ESTATE PORTFOLIO

Overview

The Port is engaged in the marketing, leasing and management of its properties for commercial business uses, including office industrial, storage, retail and restaurants. As described in the table below, as of June 2009, the Port has 458 leases covering 13.9 million square feet including piers, sheds, wharves, seawall lots, and open industrial land that generate approximately $50.1 million in revenues annually.

Many of the Port's leased facilities are in need of repairs and seismic upgrades that limits the Port's ability to realize potential lease revenues as well as a risk of losing leasable space if a facility is condemned. Maintenance challenges for the Port tend to be related to the need to replace the piles supporting the piers and the aprons that

surround the pier sheds. These parts of the piers tend to degrade most rapidly because they are repeatedly exposed to wet-then-dry conditions due to tidal and storm movement of the Bay waters. Over the past five years, the Port has had to condemn two piers when the piles became deteriorated to such an extent that it would be unsafe for the Port's tenants to continue to use the pier.

In the 1970s and 1980s, the Port entered into several ground leases of its seawall lots in the Northeastern Waterfront, providing for the development of significant office space on the waterfront, including the Publicus Building, the Francisco Bay Office Park, the Roundhouse Plaza and the KGO Building. In the Central Waterfront, the Port leased hundreds of thousands of square feet of vacant seawall lots and piers to the San Francisco Redevelopment Agency. At Fisherman's Wharf, the Port entered into a ground lease in 1977 for Piers 37-41 and two adjacent seawall lots that involved the removal of Piers 37 and 41, which resulted in the development of the Pier 39 festival marketplace, with an adjoining marina and parking garage.

After completion of the Waterfront Land Use Plan, the Port entered into public-private partnership ground leases for the development of a new baseball park (SBC Park—now AT&T Park) for the San Francisco Giants. Pier 1 was ground leased by the Port in 1999 and now houses both commercial and office tenants and the Port of San Francisco's headquarters. The landmark Ferry Building, a $100 million project, was ground-leased by the Port and has become a significant attraction as a mixed-use retail marketplace and commercial office complex. San Francisco Waterfront Partners completed construction on the historic rehabilitation and redevelopment of Piers 1 ½, 3 and 5 into a $46 million office and retail project. The 22-story residential condominium Watermark project was completed at Bryant and Beale Streets at a cost of $97.7 million. In January 2002, Boudin Properties completed construction of a 25,000 square foot, $15 million, demonstration bakery-restaurant and market hall at the entrance to Fisherman's Wharf under a 40-year public-private partnership lease.

These long-term master leases with base and percentage rents are replacing leases of Port facilities previously leased to dozens of individual tenants with short-term leases. Capital investment from the private sector, through these public-private partnership development projects has provided funds to the Port to enhance, add value, and prolong the useful life of Port assets. In establishing its lease arrangements with tenants, the Port endeavors to transfer most risks related to such developments to the ground lease tenant. See "PORT CAPITAL PLAN AND DEVELOPMENT STRATEGY" below.

Industrial and Non-Maritime Real Estate Leases and Lease Revenues

The largest single lease category, the "industrial" group, consists of over 200 tenancy agreements and represents approximately 50% of all Port agreements. However, these types of industrial tenants vary greatly and the lack of a dominant single category rent source has mitigated the impact on the Port of recent regional and national economic downturns. Industrial tenant uses range from simple storage to manufacturing and fabrication. The next largest group, the "office" leases, comprise approximately 27.5% of the Port's tenancy agreement mix.

Although diversified in terms of the numbers of users, several categories of Port tenants represent a larger share of Port revenues than do others. The Port's restaurant and retail tenants account for approximately 27% of all commercial property lease rents. Similarly, rent from the Port's diversified industrial tenants represent approximately 25% of such revenues. Industrial tenants include warehouse and storage space leases as well as parking for trucking companies and a towing company. These tenants could relocate outside of the Port since their business are not water dependent.

Over 75% of all Port leases provide for periodic fixed or cost of living increases in the base or minimum rents. Most Port retail and restaurant leases provide for the monthly payment of percentage rents utilizing percentage rent factors consistent with national and regional percentage rent comparables. Most Port commercial property leases are fully or partially net leases, with the tenants responsible for all or some of the property operating expenses including utility fees, some maintenance and repair, liability and fire damage insurance, janitorial expenses and the payment of state and local taxes. Full service office leases constitute a smaller percentage (56 leases or approximately 10%) of the commercial property leases.

Nearly every Port lease with a term of five years or less contains provisions for termination by the Port in order to effect a public project or facility rehabilitation. Such leases also typically contain provisions for the waiver of relocation costs related to such projects. Information regarding lease terms held by current non-maritime tenants of the Port is set forth in the following table.

PORT OF SAN FRANCISCO
Real Estate Leases

Remaining Lease Terms[1]

	Number of Leases		Annualized Revenue[2]	
Month-to-Month	264	57.6%	$15,484,782	30.9%
Remaining Term:				
Less than One Year	44	9.6	3,704,881	7.4
One to Five Years	70	15.3	6,992,683	14.0
Five to Ten Years	13	2.8	3,020,302	6.0
Ten to Twenty Years	8	1.8	3,591,633	7.2
Twenty to Thirty Years	25	5.5	6,547,001	13.1
Over Thirty Years	34	7.4	10,737,568	21.4
Total	458	100.0%	$50,078,850	100.0%

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1 As of June 2009.
2 Based on current minimum rents and Fiscal Year 2008-09 percentage rents over base rent amounts.

Source: Port of San Francisco

The following table sets forth the top ten tenants of the Port generating the highest revenue for Fiscal Year 2008-09. The lease revenue of these ten tenants accounted for approximately 32.3% of the Port's total audited operating revenue.

TOP 10 PORT TENANTS
Fiscal Year Ended June 30, 2009
(Revenues in Thousands)

Company Name	Revenue[1]	Percent of Operating Revenue[2]	Use	Expiration
China Basin Ball Park Co.	$3,465	5.2%	Ballpark Ballpark Parking	12/31/2022 11/15/2009
San Francisco Municipal Transportation Agency	3,230	4.9	Office, Storage, (Towed Autos and Other Items), Parking	Various[3]
Pier 39 Ltd. Partnership	2,521	3.8	Retail / Entertainment	12/31/2042
Central Parking Systems	2,424	3.7	Parking	4/30/2001[4] 4/30/2007[4]
Imperial Parking (U.S.), Inc.	1,914	2.9	Parking	Various[5]
AMB Property, LLP	1,889	2.8	Office Development	8/1/2049
Hanson Aggregates Mid-Pacific	1,581	2.4	Maritime Terminals (Dry Bulk Cargo)	Various[6]
SF Recycling & Disposal, Inc.	1,525	2.3	Recycling Center and Office	7/31/2023
Ferry Building Investors, LLC	1,484	2.2	Office / Retail Development	4/9/2067
Hornblower Yachts, Inc.	1,403	2.1	Excursions / Parking	Various[7]
Total	$21,436	32.3%		

1 Amounts represent tenant billings net of certain revenue credits and allowances and accounting accrual adjustments.
2 Operating revenue for the Fiscal Year ended June 30, 2009 was $66,452,000.
3 Two leases have continued under holdover provisions. The remaining leases have various expiration dates out to 4/2/2071.
4 Interim use in area currently under development negotiations. Two leases have continued under holdover provision.
5 The company has various leases, all of which have continued under holdover provisions.
6 The company's leases have various expiration dates out to 2/28/2014.
7 One lease has continued under holdover provisions. The remaining leases have various expiration dates out to 12/31/30.

Source: The Port of San Francisco.

San Francisco's and the Port's Real Estate Market

The current economic crisis has taken its toll on all Bay Area commercial real estate markets. The Bay Area office market has taken the brunt of these negative effects, which has translated into fast-rising vacancy rates, a rapid growth in sublease space, reduction in rental rates, anemic leasing activity, and depletion in occupancy. The San Francisco office market continued to weaken through the first quarter of 2009, but the demand for space along the waterfront has softened less relative to the demand for space in the balance of San Francisco.

The table below shows the Port's commercial and industrial lease revenues, and parking rental revenues, from Fiscal Year 2003-04 to Fiscal Year 2008-09. Total real estate lease revenues have trended upward, from approximately $38.8 million in Fiscal Year 2003-04 to approximately $49 million in Fiscal Year 2008-09.

PORT OF SAN FRANCISCO
Historical Results of Real Estate Lease Revenue
For Fiscal Years Ended June 30
(Dollars in Thousands)

	2004	2005	2006	2007	2008	2009[1]
Commercial/Industrial	33,489	34,791	35,804	36,497	40,149	41,818
Parking Rent	5,396	5,532	6,513	7,042	7,590	7,210
Total	38,885	40,323	42,317	43,539	47,739	49,028

[1] Unaudited numbers.

Source: Port of San Francisco.

Port vacancy rates have closely followed rates of vacancy in the City real estate market. The more dramatic swings can be attributed to large Port properties coming onto or off of the market, whether because of completion of construction or renovation, or because of temporary or long-term closure of facilities in need of renovation. Further, when large properties such as Piers 27, 29, and 31 have been scheduled for development, there is typically less leasing activity because the Port is only able to offer short lease terms to prospective tenants. The table below reflects the vacancy rate of Port facilities then available for leasing from Fiscal Year 2003-04 to Fiscal Year 2008-09. The Port's current office and shed vacancy rate is about 11%, which is less than the current Citywide vacancy rate of approximately 14.6%.

PORT OF SAN FRANCISCO
Vacancy Factor of Facilities Available for Leasing
For Fiscal Year Ended June 30,[1]

	2009	2008	2007	2005	2004
Office	13.5%	1.5%	6.5%	18.4%	21.9%
Bulkhead Office[2]	17.8%	3.1%	1.2%	5.0%	2.2%
Shed[1]	10.2%	1.5%	6.8%	11.1%	13.7%

[1] Data not available for Fiscal Year Ended June 30, 2006.

[2] Port management of Piers 19, 19½ and 23 commenced on February 28, 2009. Previously, those piers had a private manager.

Source: Port of San Francisco.

PORT MARITIME OPERATIONS

Overview

The Port's maritime revenues are derived from cargo, cruise, ship repair, commercial and sport fishing, ferry and excursion operations and a full range of harbor services. As the Port has become less of a cargo port, maritime revenues as a percent of the Port's total revenues have been declining. In Fiscal Year 2009-10, budgeted maritime revenues (apart from maritime revenues such as excursion cruise agreements allocated in the Port's real estate division) are $12.2 million, or approximately 19%, of the Port's Fiscal Year 2009-10 total revenues of $63.9 million. As described in more detail below, the Port has shifted its maritime business focus from solely cargo to diversifying its revenue base to passenger cruises, harbor services and ship repair, in recognition of the Port's competitive advantage among the northern California ports as a popular tourist destination and a diversified facility. The largest source of the Port's maritime revenues continues to be cargo followed by passenger cruises. In addition, the Port has one of the largest dry docks in the United States that is able to accommodate post-Panamax ships, which will significantly increase its potential market, particularly with cruise lines.

Cargo

The primary Port cargo facilities are the 69-acre general cargo terminal at Pier 80 and bulk terminals at Piers 90, 92 and 94.

The Port competes in the bulk and neo-bulk cargo markets, having ceased handling containerized cargoes in 2005 due to high operating costs and low container volumes. This decision was made after an in-depth analysis of San Francisco's commercial strategic position in the United States west coast cargo market, which identified the inherent commercial disadvantages caused by the Port's peninsula location and poor intermodal connections. The analysis also highlighted the opportunity for the Port to focus on bulk aggregate and breakbulk cargoes, for which San Francisco was found to be in a much stronger competitive position.

The Port's shift in marketing focus resulted in terminal agreements and leases at Piers 90/92 and 94 with four different companies handling construction aggregates imported primarily from Canada. In 2008, 1.1 million tons of aggregate and sand crossed San Francisco terminals, making it the Port's leading commodity.

The Port handles neo-bulk cargoes at Pier 80, including steel coil, rebar, structural steel, lumber and project cargoes, although volumes have been negatively impacted by the 2009 world economic recession. The Port is the only remaining port in the San Francisco Bay Area to handle breakbulk cargo, however, and anticipates volumes to increase as the economic situation improves.

In January 2009, the Port hired CBRE Consulting and Martin Associates to examine current and future Port cargo markets. This analysis indicated that the Port should continue to focus on bulk cargoes, which should continue to be a stable and profitable market, while the breakbulk market would continue to be extremely sensitive to world market conditions. The study also identified a potentially significant opportunity for Pier 80 to serve as a national distribution for import automobiles if rail tunnel clearance on the Union Pacific Railroad peninsula line just south of its cargo terminals could be increased.

Passenger Cruises

One of the Port's leading maritime industries is cruise shipping. In recent years there has been a 26.7 percent increase in the volume of cruise passengers on a calendar year basis (from 137,315 in 2003 to 173,922 in 2008). The Port has been actively marketing itself to the cruise industry in order to attract more cruise calls and new cruise ship lines to San Francisco. In 2009, approximately 175,000 passengers are expected on a total of 61 cruise ship calls, which are expected to generate approximately $2.1 million in revenues. In Fiscal Year 2009-10, the Port expects to have a total of nine cruise lines calling. On average, more than 3,000 passengers and crewmembers pass through the cruise terminal whenever a cruise ship is in port. Cruise vacations have continued to be a strong vacation option even in the current economic climate, with cruise lines reporting sailings of close to 100% occupancy and new, larger ships on order.

San Francisco has been a base port for Alaska cruises since 1969; the Port is also suitable for Mexico and coastal itineraries, world cruises, and repositioning calls. Competing west coast cruise ports include Los Angeles, Long Beach, and San Diego to the south, and Seattle and Vancouver, Canada, to the north. These ports have a geographic advantage because of their relative proximity to either Mexico or Canada, which allows them to offer round-trip cruises of seven days or less. San Francisco's round-trip cruises to Mexico and to Alaska (via Canada) are 10 to 12 days in duration and appeal to a somewhat narrower segment of the market.

The Port's current primary cruise terminal, Pier 35, is within walking distance of some of the City's most popular visitor destinations, including Fisherman's Wharf, Pier 39, and the Alcatraz ferry. The nearby Pier 27 is being developed to become the primary cruise terminal by 2013 and will feature the highest design, energy, and environmental standards, including a shoreside power hook-up for cruise ships as early as 2010.

San Francisco's Pier 70 shipyard offers cruise lines the expert technical support they require and the largest floating repair drydock in North America. Given that newer cruise ships are so large that they are unable to pass through the Panama Canal, the Port expects that use of this facility will increase as more of these "post-Panamax" ships are constructed.

Commercial Fishing

The Port is the center of the commercial fishing industry in northern California. The Hyde Street Harbor, a $7.5 million fishing marina completed in 2001, and Fisherman's Wharf together accommodate more than 200 fishing fleet vessels. The region's major fish processors are located at specialized facilities in Fisherman's Wharf and the adjacent Pier 45 Commercial Fishing Center. The Port berths approximately 125 boats between Hyde St. and Fisherman's Wharf harbor. The Port's major local fisheries include Dungeness crab, salmon and herring. In the past year, federal limitations have been imposed on both the salmon and herring seasons in an effort to protect both species from overfishing and environmental impacts exacerbated by below average rainfall. Fish processing has remained strong, however, because most of the fish processed at the Port are flown into San Francisco for processing, as opposed to being caught in local waters.

Ferry Operations

The Port serves as the central terminus for Bay Area commuter ferry routes. The Port built, maintains and operates two ferry terminals at the Ferry Building and one at China Basin near AT&T Park. The Golden Gate Bridge, Highway and Transportation District operates a terminal at the Ferry Building for Marin commuters. In 2008, over 3.3 million passengers passed through the Port's ferry terminals. Future expansion of Ferry facilities is being planned by the Port and the San Francisco Bay Water Emergency Transit Authority.

Harbor Services

The Port is also the center of northern California's harbor service industry and leases facilities to tenants providing harbor services to the maritime industry throughout the Bay Area. These ancillary operators include numerous tug and tow operators, the San Francisco Bar Pilots, and contractors providing lay berthing to Maritime Administration Ready Reserve (MARAD) ships. Maritime rents and real estate leases and fees, collected both from contractors that provide lay berthing to ships and from vessel owners requiring temporary berthing, comprise the revenues included in this category.

Ship Repair

The Port's sole ship repair yard is operated by a single lease tenant at Pier 70, providing repair services to cruise ships, tanker vessels, bulk carriers, container ships, military vessels, and local bay traffic for maintenance, alterations and repairs. The ship repair tenant, BAE San Francisco Ship Repair ("BAE SF"), leases nearly fourteen acres of land and sixteen acres of water from the Port. Included in the tenant's leasehold are seven cranes and two floating drydocks, all owned by the Port. In 2008, the Port entered into a tripartite agreement with BAE SF and Princess Cruises that resulted in a $5 million enhancement of the largest drydock as described above under "— Passenger Cruises," significantly increasing its potential market. BAE SF has ten years remaining on its lease with

the Port pursuant to which the Port receives an annual minimum rent of $950,000 and a percentage of annual sales over $36 million in Fiscal Year 2008-09. The Port has agreed to provide BAE SF with rent credits that will apply toward percentage rent overage payments of up to $3 million over ten years to offset the drydock enhancement costs.

PORT CAPITAL PLAN AND DEVELOPMENT STRATEGY

Most capital assets comprising the Port are at least 40 years old, were constructed for use in the cargo shipping industry as it existed at the time, and are reaching the end of their useful structural life. All of the piers currently in use by the Port or Port tenants were originally constructed approximately 100 years ago. Of those, only nine, AT&T Park, the Ferry Building, Pier 1, Piers 1½, 3 & 5, Pier 27, Pier 39, Pier 45, Pier 48 and Pier 80, have been rehabilitated since 1950. Many Port facilities are historically significant structures. In recognition of this significance, the National Park Service designated the northeast waterfront, from Pier 45 in the north to Pier 48, as the Embarcadero National Register Historic District. This district includes 20 historic piers as well as eight other structures of historic significance. The Pier 70 area also includes 35 buildings and many other features recognized to be of historical significance. The Port is in conversation with the National Park Service regarding the designation of a portion of the Pier 70 area as a National Register Historic District.

The age and condition of Port facilities, combined with their construction on filled tidelands in a high-risk seismic area, means that most Port facilities need capital improvements in order to be functional, code compliant and in usable condition in service of the mission of the Port, whether they are continued in their current use, transformed to a new or enhanced use or removed from service. The Port has removed nearly one million square feet of pile supported structures over the past 30 years to create open vistas, build new marinas and eliminate fire hazards.

Port staff conduct ongoing assessments of the condition of Port facilities. Using data from this assessment process, the Port has developed a Ten-Year Capital Plan (the "Capital Plan"), which was updated in 2009, to quantify all of the Port's outstanding capital needs and the sources of funding, if any, available to address those needs. The Capital Plan identifies approximately $2 billion in repair, replacement, and seismic upgrade work for Port piers and buildings. The Capital Plan also identifies $650 million in existing or potential funding sources to finance such work, including grants, Port Commission revenue bond proceeds, City general obligation bond proceeds, Infrastructure Financing District bond proceeds, tax increment revenue, tenant contributions and developer partner equity. New funding sources have been made available through recent legislative efforts of the Port Commission staff and additional funding sources may become available in the future through similar legislative efforts. The goal of the Capital Plan is to provide a rational, transparent basis for allocating available funds to address the Port's outstanding capital needs and to help the Port Commission identify assets that it may need to close as a result of insufficient funds.

The Port Commission prioritizes capital spending in a manner that reflects the Port's institutional values, namely, ensuring the safety of the public, fiscal responsibility, and fulfilling the Port's mission. As a practical matter, certain types of funding available to the Port for capital projects are earmarked for particular projects, so those projects are accelerated by virtue of having received funding. Capital improvement activity necessary to address such deferred maintenance is not part of Operation and Maintenance Expenses. See "PORT FINANCIAL OPERATIONS— Port Budget and Capital Planning Processes" herein.

Facility Assessment Program

Formalized in 2002, the Port's Facility Assessment Program inspects, categorizes and records the condition of the over 350 piers, wharves and buildings in the Port area. The Port's Facility Assessment Team manages the program, conducts periodic inspections to identify health and safety issues, and informs tenants and the public about its findings. The Facility Assessment Team is comprised of civil and structural engineers (primarily Port staff, but also some outside contractors) who perform facility inspections and non-engineering Port staff who provide support in addressing legal and lease-related matters arising out of the inspections. The frequency of the inspections varies by facility and depends on the type of building material and the type of occupancy or use of the facility. Based on the structural condition of each facility, the Facility Assessment Team makes recommendations for barricades and warning signs. The inspection findings are used to document maintenance and repair needs for the Port facilities.

The Facility Assessment Team's inspection findings and recommendations are summarized in a report that includes a structural rating of each facility using the following categories:

- green (good structural condition, no live load reductions/restrictions)
- yellow (fair structural condition, but needs some structural remediation, reduced/restricted live loading)
- red (poor structural condition, restricted access)

Ten-Year Capital Plan

The Capital Plan estimates the Port's accumulated deferred maintenance and capital improvement needs for its maritime and commercial properties to be approximately $2 billion. This figure represents the anticipated cost for renewal and repair of existing facilities or deferred maintenance for such facilities were such facilities to be continued to be used as they are currently being used. Much of the anticipated spending by the Capital Plan, though, will be to enable facilities to be used in a different way. The Capital Plan consists largely of non seismic substructure pier and building repairs, as well as street resurfacing and sewer repair projects. In evaluating the use of its properties and its overall maintenance needs, the Port has, on an informal, operational basis, treated deferred maintenance as maintenance work that is required to ensure the full useful life and capacity of buildings, structures, and improvements and that has no funding alternative. Consequently, major repair, rehabilitation and/or new capital improvements continue to be needed to address long-standing deferred maintenance. Copies of the Capital Plan can be found on the Port's website www.sfport.com. The Capital Plan is not incorporated herein by such reference.

Since 2008, the Port has treated its piers and wharves collectively as an infrastructure system. This change in treatment was made because these substructures have a long useful life, which means that differential wear-and-tear on individual elements of the system is difficult to predict. Therefore, capital funding is programmed each year to repair or replace those elements that are the weakest part of the overall system or that become damaged unexpectedly. The level of funding programmed for a given year in the Capital Plan is calculated assuming the periodic replacement of portions of pier substructures, with the frequency of replacement based on construction era, construction type and level of exposure to tidal action. For example, Port engineers estimate that the Port should rehabilitate 15% of the pre-1920s-era concrete piers every 20 years. Broken down by Port region, the Capital Plan is as follows:

Port Region	Amount (in 000s)	Percent of Total
China Basin	$ 134,827	7%
Ferry Building	90,827	5
Fisherman's Wharf	107,810	5
Northeast Waterfront	391,914	20
Portwide	323,658	16
South Beach	310,296	15
Southern Waterfront	647,990	32
	$2,007,322	100%

Source: Port of San Francisco, 2009 Ten-Year Capital Plan.

Approximately $648 million, or 32%, of the Port's capital need is in the southern waterfront, which includes the Pier 70 campus and Piers 80, 90, 94 and 96. Given the relatively recent renovations of the Ferry Building and Piers 1½, 3 & 5, the Ferry Building region requires the least capital improvements of all of the Port's regions.

The Portwide category in the table above represents approximately $324 million, or 16%, of the Port's capital need and includes the following projects that should be funded in the Port's annual capital budgets (1) dredging of the bay floor along the waterfront, which maintains the depth of the berths at the Port's piers so that they remain suitable for water traffic, (2) facility condition surveys, which allow the Port to evaluate the state of the Port's

structures on a continuous basis and in an organized manner, and (3) emergency facility repair, a set-aside of funds for unforeseen situations, available for the most pressing capital needs in subsequent years if the programmed year remains emergency-free. It also includes the unfunded pier and wharf substructure renewal investment calculated for Fiscal Year 2007-08. Until such time as the Port is in a position to commit capital funding to this purpose, the Portwide capital funding need will continue to grow in successive years. The Port's Fiscal Year 2008-09 and Fiscal Year 2009-10 Port funded capital budgets were $7 million and $9.6 million respectively.

Of the $2 billion in total need, the Port has identified a total of $650 million in funding, including Port tenant obligations, the Port's annual operating budget, Port Commission revenue bond proceeds, private developer equity contributions, Infrastructure Financing District bond proceeds, and City general obligation bond proceeds. Of the $650 million in proposed funding, approximately $333 million would be allocated to renewal and repair of existing facilities or deferred maintenance, with the balance directed to new capital improvements.

Of these sources, revenue bond proceeds are the only source that are not project-specific and therefore can be directed to any project, Portwide. In order to support the issuance of the Bonds and additional revenue bonds in future years, the Capital Plan allocates proceeds of revenue bonds to address deferred maintenance on projects that are likely to increase the Port's revenue base. Projects were selected for revenue bond funding based on whether or not the facility to be improved (1) is currently profitable, (2) has the potential to be more profitable because it is underutilized, (3) has the potential to be more profitable because it has a lease set to expire in the next ten years, allowing the Port to improve the property and increase rents once the property is ready to be relet, or (4) is critical to supporting Port operations.

The following tables reflect the Capital Plan proposed allocations of capital projects, to be funded by Port Commission revenue bond Infrastructure Finance District bond. The $164 million in Port revenue bond-funded projects includes the Series 2009 Projects. See "SERIES 2009 PROJECTS" herein.

Capital Plan Proposed Funding Allocations

Port Facility/Project	Port Revenue Bond Funds	Infrastructure Financing District Bond Funds
Agriculture Building	$ 5,000,000	
Pier 9	21,420,000	
Piers 19-23	45,580,000	
Pier 27 Cruise Terminal	20,000,000	
Piers 33 and 35	27,000,000	
Pier 50	20,000,000	
Pier 80 & Rail Improvements	7,500,000	
Pier 90-96 Seawall & Backlands Improvements	8,000,000	
Wharf J9	5,000,000	
Fisherman's Wharf Fuel Dock Repairs	1,500,000	
Misc. Utilities	3,000,000	
Pier 70 – Infrastructure		$40,000,000
Pier 70 – Environmental		30,000,000
Pier 70 – Open Space		20,000,000
Pier 70 – Piers and Wharves		50,000,000
Pier 70 – UIW Building		45,000,000
Islais Creek		4,000,000
Blue Greenway		16,000,000
	$164,000,000	**$205,000,000**

Source: Port of San Francisco, 2009 Ten-Year Capital Plan.

The 10-Year Capital Plan also includes real estate development projects, projects to be funded by City General Obligation Bond proceeds and projects for which funding sources have not yet been identified. See "—Ongoing and Future Capital Projects" below.

Port Legislative Efforts

Since 2005, the Port has sought and obtained legislation at the State and local levels to address its capital funding shortfall and expand the range and profitability of uses on Port property. The 2005 adoption of SB 1085 added Infrastructure Financing District bonds ("IFD Bonds") to the Port's funding options. SB 1085 permits the Port to petition the Board of Supervisors to form Infrastructure Financing Districts, with the power to capture growth in property tax increment for periods of up to 40 years to finance improvements. The 2007 adoption of SB 815, drafted by the Port and the SLC, authorizes the Port to lease or sell underutilized landside waterfront property located south of the Bay Bridge for its highest and best use, free of the use restrictions of the public trust, in order to generate funds for historic rehabilitation and open space. The 2008 approval by City voters of Propositions A and D directed City general obligation bond funds to park and open space projects and opened up yet another new funding source for the Port, as described above. [Finally, the 2009 adoption of AB 1176 broadens the permitted uses of IFD Revenues and permits the Port to retain the State's portion of IFD Revenues collected in the Pier 70 area. See "—Ongoing and Future Capital Projects – Pier 70" below.]

While the enactment of this legislation required a significant amount of favorable political will and cooperation among a variety of legislative and regulatory bodies, further regulatory and legislative approvals will be required to realize the full benefit of recent legislation to the Port. The Port can give no assurances that such approvals will be granted.

Recently Completed Capital Improvement Projects

In addition to maintenance capital projects such as roof replacements and apron repairs, the Port and its private sector partners have completed the following improvements within the Port's jurisdiction since 2004:

Amador Street – Completed in 2005, the Amador Street Connection project provides an inter-terminal connection between the Port's Piers 90 – 92 and Piers 94 – 96 cargo terminals. This roadway improvement provides for an improved quarter of a mile connection between two of the Port's cargo terminals at which imported materials are constantly hauled between one another. This project has allowed for a more efficient movement of goods between the terminals and has reduced hundreds of truck trips on a weekly basis from a two mile round trip to under a half a mile.

Boudin's at the Wharf – Completed in 2005, Boudin's at the Wharf is a new bakery, café and museum located on Jefferson Street in the Fisherman's Wharf area.

Piers 1½, 3 and 5 – Completed in 2006, Piers 1½, 3 and 5 were renovated and seismically upgraded and are now used as office, restaurant, and retail space.

Demolition of Wharf J10 – Completed in 2007, this project demolished a condemned pile supported wharf over the shoreline in Fisherman's Wharf and rebuilt the water's edge with rip rap (jetty stones).

Illinois Street Bridge – Completed in 2008, this bridge, located in the southern waterfront, provides added rail access to allow the Port to better market cargo facilities at Pier 80 to prospective clients.

Public Boat Ramp at Pier 52 – Completed in 2008 and funded with a state grant, the public boat ramp at Pier 52 provides the only publicly accessible boat ramp in San Francisco.

Rincon Restaurants – Completed in 2008, the Rincon Restaurants are located on the waterside adjacent to Rincon Park near Howard Street and house two restaurants – Waterbar and Epic Roadhouse.

Pier 24 Annex – Substantially completed in 2009 and located on the Embarcadero near Harrison Street, this pier has been in poor condition for several years. In 2008, the Port leased Pier 24 Annex to Andrew Pilara who has invested approximately $8 million to upgrade the substructure and superstructure in order to house his art collection. This project will be completed in 2009.

Ongoing and Future Capital Projects

The following projects are ongoing or have at least partial identified funding under the Capital Plan. Many of these projects will be implemented concurrently, with progress made on each as and when funding for such project becomes available. To the extent funds are available for discretionary application by the Port Commission, priority is given to projects that reflect the Port's institutional values, namely, ensuring the safety of the public, fiscal responsibility, and fulfilling the Port's mission.

Ongoing Projects. Each year, the Port capital budget funds dredging of the Bay floor along the waterfront, which maintains the depth of the berths at the Port's piers so that they remain suitable for water traffic and sets aside funds for emergency facility repair.

Bond Projects. For a description of projects proposed to be funded with proceeds of the Bonds, see "SERIES 2009 PROJECTS". Projects proposed to be funded with proceeds of the City general obligation bonds are described below.

Real Estate Development Projects. As noted above under "PORT OF SAN FRANCISCO – Real Estate Portfolio and Asset Management—Overview," since the 1970s, the Port's primary tool for redeveloping its property has been public-private partnerships wherein the Port is involved in "exclusive negotiations" with private investors for development of its property. Such negotiations are subject to final approval by the Port Commission and the Board of Supervisors. Both entities reserve the sole right to veto any of these projects.

The Port's development projects involve a variety of substantial risks, including development, entitlement, financial, construction, market and operating risks. In the Port's public–private partnership projects, these risks are almost completely shifted to the private development partner. The Port Commission grants long term leases (50-66 years) to the developers. The Port Commission does not typically subordinate its leases to the financing obtained by the private developers and the Port Commission does not deliver the leasehold to the developer until the developer is able to immediately start construction, with all entitlements, permits, equity and debt financing, construction contracts, insurance, and guarantees in place. Until the leasehold is delivered to the developer, the Port continues to receive rents from the interim tenants in occupancy. With a few exceptions, there is generally no immediate negative financial impact to the Port if a project does not proceed, although the anticipated repairs and improvements would not then be undertaken and the other anticipated financial benefits would not be achieved.

During the pre-development and development period, the Port is subject to the risk of litigation from developers whose projects do not proceed, notwithstanding that its contracts prohibit developers from making claims against the Port. Once the lease is executed, the Port is subject to economic risk affecting the tenant, lawsuits against the developer or the project and risks relating to the tenant's failure to perform, mismanagement and similar business risks, as any other owner lessor of commercial property. See "CERTAIN RISK FACTORS" herein.

The Port typically limits its contribution toward public-private partnership projects to the existing facility improvements, plus the time related expense of Port staff, attorneys and other consultants needed to coordinate and assist the developer. For some developments, the Port may grant rent credits towards specific construction components, but does not directly contribute Port funds. During the pre-development and development phases of a project, the amount of the interim revenue to the Port under such leases is typically reduced because of the uncertainty the pending project creates for interim tenants, with the Port being able to offer only very short term leases. During the construction period for the project, the rent that the developer pays the Port is typically less than the Port previously received and less than the rent that commences upon the completion of construction. Such reductions are reflected in the Port's revenue projections for the project.

The following real estate development projects on Port property are currently engaged in an exclusive negotiations process with a private investor/partner, although no assurances can be given that any of the described projects will result in a completed project or in increased Net Revenue:

Piers 15 – 17 Exploratorium. This project involves the relocation of the Exploratorium museum from the Palace of Fine Arts in Golden Gate Park to Piers 15 and 17; the historic rehabilitation and upgrade of Pier 15; creation of an open water lagoon, courtyard and outdoor exhibit area; construction of exhibit galleries, retail store, cafés, exhibit fabrication area, classrooms, theatre and offices inside Pier 15 and new Observatory Building; and construction of a boat dock for small watercraft and water taxi service. The project has received CEQA approval, and the Port Commission approved the lease and development agreement in September 2009. The lease is expected to commence in the spring of 2010. The total cost of the project is currently estimated at $175 million. Under the lease, the Port expects to receive $944,124 annually (indexed for inflation) for Pier 15 (subject to a 50-year rent credit).

Seawall Lot 351. Currently a surface parking lot, this 2/3 of an acre site is located along the Ferry Building waterfront. The Port has entered into an exclusive negotiating agreement with San Francisco Waterfront Partners, a venture of Pacific Waterfront Partners, which developed Piers 1½, 3 and 5 and the Pier 24 Annex, and California State Teachers Retirement System, to combine the Seawall Lot 351 site with the adjacent tennis club property. It is expected that lease approval will occur, and construction will commence, in 2012. The total cost of the project is currently estimated at $345 million and is expected to be financed by the developer through a combination of private debt and equity. Rent remains under negotiation, although the developer offered $500,000 annual rent in its proposal.

Seawall Lot 337 & Pier 48. This 16 acre site is located on the south side of China Basin Channel, bounded by Third, Terry Francois and Mission Rock Streets, adjacent to the Mission Bay development, and is expected to be developed with a major waterfront public open space and urban mixed uses. Seawall Lot 337 Associates, LLC and Port staff are drafting an exclusive negotiating agreement for Port Commission approval. The Port anticipates that this project, if completed, will generate new lease revenues and result in increased property values, resulting in the receipt of IFD Revenues. [Text to come from finance and administration.] The developer's proposal anticipated that the lease would be executed in [2012] with lease payments commencing on subparcels beginning in 2013. The total cost of the project is currently estimated at $1.8 billion and is expected to be financed through a combination of private debt, developer equity and IFD Revenues. From 2013 to 20__ annual rent to the Port is expected to rise from $_____ to $_____.

Pier 70. The largest element of the Capital Plan is the rehabilitation and redevelopment of the heavily blighted Pier 70 area, with an estimated need of approximately $525 million in capital improvements and with a total preliminary estimated project development cost of $1.9 billion. The total cost of the project is expected to be paid with a combination of private debt, developer equity, IFD Bond proceeds and City general obligation bond proceeds. Pier 70 is a 65-acre brownfield site on the City's central waterfront with a National Register eligible historic district. Proposed improvements include upgrading salvageable buildings, demolition of unsalvageable ones, environmental remediation, historic preservation and reuse of a portion of the site, improvements to street and utility infrastructure and construction of an open space park area near the water's edge. While Port staff hope that much of this work can be completed through private development, other sources of funding must be identified and invested in the area in order to attract private developer interest and funding. As a result, the Capital Plan programs a total of $140 million in IFD bond funds, as well as the applicable portion of City general obligation bond funds, for improvements to the Pier 70 campus. In addition, Proposition D – Pier 70 Land Use and Financial Plan, approved by the City's voters at the November 2008 election, provides the Port with new financial and land use tools to restore Pier 70. Proposition D permits the Board of Supervisors to dedicate City general fund revenues in an amount up to 75% of projected payroll and transient occupancy tax revenues generated by Pier 70 development for a period of up to twenty years to finance waterfront parks, environmental remediation, historic rehabilitation and other public improvements.

City General Obligation Bond Funded Projects. City voters approved Proposition A – Clean and Safe Neighborhood Park General Obligation Bonds at the February 2008 election, authorizing the issuance of $33.5 million of City general obligation bonds (the "G.O. Bonds") to finance certain waterfront parks on Port property, including :

Pier 43 ½ Promenade in Fisherman's Wharf. The $9 million in City general obligation bond proceeds will be used to finance seawall repairs and a new two-block public promenade along the Bay from Powell to Taylor streets. The public promenade would close a gap in the San Francisco Bay Trail and would feature tables, chairs, signage and views of Alcatraz Island and the historic rail arch.

Brannan Street Wharf Park. On the water's edge in the heart of South Beach, this project would replace the dilapidated Pier 36 and the former Pier 34 and marginal wharf with 60,000 square feet of new wharf, a public float for small boats, and a 400 foot landscaped area. The $3 million in City general obligation bond proceeds will be combined with $17 million in already-appropriated Port funds to fund the project fully.

Blue Greenway Projects. The Blue Greenway is a series of open spaces and connections between them along the City's southeast waterfront, beginning at China Basin at Mission Creek and extending to the City and County line at Candlestick State Park. Many of the open spaces and connections along the Blue Greenway are located within the Port's jurisdiction, and the $21 million in City general obligation bond proceeds will be used to initiate some of those improvements.

Total City General Obligation Bond Funding Allocated to Port Park Projects

Port Area	Proposed Park	Project Name	G.O. Bond Funding
Fisherman's Wharf	Pier 43½ Park	Pier 43½	$9,000,000
South Beach	Brannan Street Wharf Park	Brannan St. Wharf	3,000,000
China Basin	Bayfront Park		
Southern Waterfront	Crane Cove Park		
	Warm Water Cove Park	Blue Greenway Project	21,000,000
	Islais Creek		
	Heron's Head Park Entrance		
		Total:	**$33,000,000**

Source: Port of San Francisco, 2009 Ten-Year Capital Plan.

Unfunded Projects

The Capital Plan does not identify a known source of funding for a total of $1.2 billion of projects, including the facilities listed in the following table. The $1.2 billion includes future repairs during the term of the Capital Plan.

Major Deferred Capital Projects

Region	Port Facility	Unfunded Portion
Northeast Waterfront	Pier 31, office and warehouse space, pier substructure	$ 22,500,000
South Beach	Pier 26, office and warehouse space, pier substructure	46,300,000
	Pier 28, office and warehouse space, pier substructure	31,000,000
	Pier 38, maritime recreation facility near South Beach Harbor	46,900,000
China Basin	Pier 50, Shed D, the Port's Maintenance Facility, pier substructure	17,200,000
	Pier 54, office and warehouse space, pier substructure	38,400,000
Southern Waterfront	Pier 70 Campus, contains a vast array of historic structures	297,000,000
	Pier 80 Cargo Facility	69,700,000
Total		$569,000,000

Source: Port of San Francisco, 2009 Ten-Year Capital Plan.

Without further legislation, there are two possible sources of funding for the deferred projects. First, the Port may be able to secure grant funding for its open space and transportation projects. Second, the Port believes that Pier 33, Pier 35, Pier 26 and Pier 70 are good candidates for future real estate development projects involving significant equity contributions from private partners. However, the Port has not secured approvals for project scopes at these Piers from various State agencies such as SLC and BCDC, nor has it issued requests for proposals for these projects. Thus, while the Port has identified these facilities as potential development projects, it is premature to conclude that they will be repaired and upgraded by a developer. If the Port is unable to identify a funding source or a developer to repair and seismically upgrade these facilities, it will eventually need to close the facilities and demolish them (if it can secure funds for demolition) or allow them to deteriorate and fall into the Bay. The Port currently receives a total of $4.1 million annually from leasing these facilities.

The Capital Plan also calls for certain rail and tunnel improvements, various open space improvements, improvements to the Agriculture Building, Pier 9 and the seawall along Piers 90-96, and the removal of Pier 36 in the near term. Open space improvements and mandated mitigations (such as the Brannan Street Wharf described above) are funded as funding becomes available. The Capital Plan allocates funding to a portion of these open space projects from land sale proceeds, Port operating revenues and City general obligation bond funds.

PORT FINANCIAL OPERATIONS

Introduction and Overview

Port operating revenues, which totaled approximately $65.9 million in Fiscal Year 2008-09, are derived from real estate and maritime operations. Real estate revenues, which are made up of ground leases and other short and long-term leases of Port property to non-maritime industrial, commercial, retail, office and other business enterprises, comprised approximately 82% of Port operating revenues in Fiscal Year 2008-09. Maritime revenues, which are derived from cargo shipping (dry and liquid bulk cargo, and break bulk cargo), dry dock and ship repair services, passenger cruise ship activities, warehousing, harbor services, commercial fishing and other miscellaneous maritime activities, comprised approximately 18% of Port operating revenues in Fiscal Year 2008-09. The bulk of Port revenues are rental revenues derived from long-term leases of Port facilities, providing a practical constraint on the Port's ability to increase annual revenues absent tenant turnover or capital investment in the creation or improvement of rental facilities. Port operating revenues increased by $8.9 million or 15.5% between Fiscal Year 2004-05 and Fiscal Year 2008-09. See "– Port Operating Revenues – General". Other sources of funding available to the Port, used primarily for capital projects, include grants, Port Commission revenue bond proceeds, City general obligation bond proceeds, IFD Bond proceeds, tax increment revenue, tenant contributions and developer partner equity. See "PORT CAPITAL PLAN AND DEVELOPMENT STRATEGY".

Port financial obligations in each year include operation and maintenance expenses included in the annual operating budget and capital expenditures included in the annual capital budget. Port operation and maintenance expenses, which totaled approximately $60.5 million in Fiscal Year 2008-09, include personnel costs, charges for use of City services provided by other City departments, office expenses, utility costs, materials and supply costs, discretionary expenses, [judgment claims and] litigation expenses, and other general operating expenses. In Fiscal Year 2008-09, the largest of those categories were personnel expenses, representing approximately 48.4% of total operation and maintenance expenses, and charges for use of City services, representing approximately 21.9% of the total. Operation and maintenance expenses also include the costs of any repair and maintenance of Port facilities that does not extend the useful life or expand the productive capacity of a capital asset. Annual deferred maintenance expenses relating to older Port facilities are not treated as operation and maintenance expenses, but rather as capital planning costs, and are payable from Net Revenue after provision for payment of principal and interest on revenue bonds of the Port Commission. Port operation and maintenance expenses increased by $16.7 million, or 38.2%, between Fiscal Years 2004-05 and 2008-09. See "– Operation and Maintenance Expenses" below.

Each annual capital budget includes capital expenditures on Port projects and Portwide activities such as dredging of the Bay floor along the waterfront, facility condition surveys and emergency facility repair. The Port's Fiscal Year 2009-10 Capital Budget allocates $23.2 million in funding to 18 capital projects. Most of the capital projects address deferred maintenance and facility improvement needs for the Port's maritime and commercial properties. See "PORT CAPITAL PLAN AND DEVELOPMENT STRATEGY" herein.

As described in the table below, the Port's Fiscal Year 2009-10 budget of $95.8 million consists of $59.5 million for operating expenses, $4.2 million to fund annual projects (stand-alone non-capital projects such as technology projects the duration of which is expected to be one year), $23.2 million for capital projects, and an $8.9 million operating reserve. $63.9 million or 66.7% of the Port's $95.8 million budget is derived from the revenues the Port generates from the use of its property, including rental income from real estate activities, parking related fees and fines, berthing fees, and permitting fees, which is sufficient to cover the Port's operating expenses and most of the Port's annual projects. The Port's operating revenues are primarily a function of the terms of leases and agreements the rates of which are determined by the real estate market. Increasing the Port's rental income often requires the Port and/or its tenant to invest in repairs and upgrades to the Port's property. If the tenant paid for the improvements, the Port typically is able to increase the rental rates only after the tenant's contributions have been amortized. As previously noted, the Port does not receive tax revenues to support its operations.

In February 2008, the Port Commission adopted Resolution 08-12, which requires the Port to budget a 15% operating reserve defined as a percent of operating expenses. The Port's Fiscal Year 2008-09 and Fiscal Year 2009-10 budgets included that 15% operating reserve. However, because the Port has a practice of conservatively estimating expenses and revenues for budgetary purposes, the Port's actual operating reserves have been greater than 15%. For example, the Port's Fiscal Year 2007-08 actual operating reserve was 33%.

Port Commission Operating and Capital Budget Processes

Budget Process. The budgets of each division of the Port reflect its business and service objectives and include clearly stated objectives and measures. Each division prepares its business plan, containing revenue estimates and resource requirements. The division plans are aggregated into the operating budget for the Port and presented to the Port Commission for approval. The annual operating budget includes all debt service costs, including bonded indebtedness costs. The budget is submitted to the Mayor for approval by May 1 of each year and then forwarded to the Board of Supervisors for review and approval by August 1 of each year. The Port's Executive Director is authorized by the Port Commission to make non-material changes to the operating budget. Significant increases to any budget item require the final approval of the Port Commission and, in certain circumstances, the Board of Supervisors.

Capital Budget Process. In addition to the annual operating budget, the Port staff also prepares a Capital Budget annually for approval by the Port Commission, which is submitted with the annual budget submitted to the Board of Supervisors. The Capital Budget prioritizes projects submitted that year for funding and identifies the various sources of funding. The Capital Budget also details previously-approved capital projects that are in progress, as well as capital projects that are approved, but for which no current funding has been identified. Funding for capital projects is generated from grants, operating fund surpluses, G.O. Bond funds, the Port's operating budget and Port Commission debt issuances.

Capital budgets are approved by the Executive Director and then submitted to the Port Commission for approval. The Capital Budget is then submitted, as part of the Port's annual budget, to the Mayor for approval and forwarded to the City's Capital Planning Committee and Board of Supervisors for their review and final approval.

The Port's Fiscal Year 2009-10 Capital Budget, summarized in the table below, provides $23.2 million in funding for 18 capital projects. In addition to these 18 projects, the Port has other capital projects which are in various stages of completion. These projects have a total estimated cost of $81.7 million, of which $57.1 million of funding has been secured. Such funding is available from (1) a combination of expenditure savings and surplus revenues from Fiscal Year 2007-08, (2) interest earnings associated with a restricted capital project account, and (3) $13.6 million in G.O. Bond proceeds. As of September 2009, the remaining $24.6 million in estimated project costs were unfunded. The Port uses the following criteria to determine which projects to recommend to the Port Commission for funding: (i) interventions to address health and safety issues; (ii) completion of funding for projects that are currently underway; (iii) preservation of Port assets; (iv) prevention of loss of revenue to the Port; (v) maintenance of Port facilities; and (vi) revenue generation.

PORT OF SAN FRANCISCO
Fiscal Year 2009-2010 Capital Budget

Sources	Amount
Estimated Fund Balance	$16,722,692
Revenue	63,876,800
Interest Earnings Restricted for Capital Projects	1,622,880
G.O. Bonds	13,557,362
Total Sources	$95,779,734
Uses	
Operating Expenses	$59,477,543
Annual Projects	4,213,126
Capital Appropriations	23,157,942
Operating Reserve	8,931,123
Total Uses	$95,779,734
Operating Reserve as a Percent of Operating Expenses	15%

Source: Port of San Francisco Fiscal Year 2009-10 Capital Budget.

Some costs included in the Port's proposed Fiscal Year 2009-10 Capital Budget are expected to meet certain of the required $30 million dollar expenditure requirement for the Waterfront Special Area Plan projects. Most of the capital projects address deferred maintenance and facility improvement needs for the Port's maritime and commercial properties. See "— Operation and Maintenance Expenses—Capital Improvement Costs Related to Deferred Maintenance and Facility Improvements" and "CERTAIN RISK FACTORS—Condition of Port Facilities" herein, for a discussion of the Port's costs related to its capital improvements and deferred maintenance needs.

Port Operating Revenues-General

The Port's operating revenues are derived from maritime and real estate operations: (i) maritime revenues, which are derived from cargo shipping (dry and liquid bulk cargo, and break bulk cargo), dry dock and ship repair services, passenger cruise ship activities, warehousing, harbor services, commercial fishing and other miscellaneous maritime activities; and (ii) real estate revenues, which are made up of ground leases and other short and long-term leases of Port property to non-maritime industrial, commercial, retail, office and other business enterprises.

The following table sets forth information about the Port's operating revenues from maritime and commercial and industrial real estate operations, based on an annualization of the current Port rent roll, current minimum rents and calendar year overage rents.

PORT OF SAN FRANCISCO
Major Port Operating Revenues[1]
June 30, 2009

	Annualized Revenue[2]		Square Footage	
Real Estate				
Industrial	$13,628,950	21.72%	6,049,024	30.74%
Ground Lease	11,909,905	18.98	5,439,298	27.64
Restaurant & Retail	10,933,361	17.42	768,588	3.90
Parking	7,239,656	11.53	1,211,761	6.16
Office	6,375,304	10.16	474,883	2.41
Subtotal Real Estate	$50,087,176	79.81%	13,943,554	70.85%
Maritime[3]				
Cargo	$4,266,415	6.80%	3,312,054	16.83%
Commercial Fishing	2,055,722	3.28	261,118	1.33
Passenger Cruise	1,960,246	3.12	241,447	1.23
Various Maritime	1,996,763	3.18	801,972	4.06
Harbor Services	1,030,533	1.64	190,282	0.97
Ship Repair	1,362,600	2.17	930,354	4.73
Subtotal Maritime	$12,672,279	20.19%	5,737,227	29.15%
Total	$62,759,455	100.00%	19,680,781	100.00%

1 Includes revenues derived from tenancy and operating agreements. Revenues from miscellaneous sources are not included.

2 Annualized revenue figures are based on current minimum rents as of June 30, 2008 and Fiscal Year 2008-09 percentage rents in excess of base rent amounts. Revenue amounts do not reflect the application of rent credits.

3 Includes traditional user fees within the maritime industry, such as wharfage, dockage and crane rental.

Source: Port of San Francisco.

Operation and Maintenance Expenses

General. The Port's Operation and Maintenance Expenses include the following costs: personnel, office expenses, utility costs, materials and supply costs, discretionary expenses, litigation expenses, payments made to the City for services of other City departments, and other general operating expenses. Any repair and maintenance activity of the Port relative to its facilities that does not extend the useful life and/or expand productive capacity of a capital asset is charged to operating expense as incurred (and as such, such costs are included as Operation and Maintenance Expense, as shown above and as discussed herein). The Port has significant deferred maintenance expenses relating to its older facilities, but due to the advanced age of these facilities and the great magnitude of rehabilitation thereof which is required to bring such properties to a current state of repair, such costs are not treated as Operation and Maintenance Expense, but rather as capital planning costs, payable from Net Revenue after provision for payment of principal of and interest on the Bonds. See "PORT CAPITAL PLAN AND DEVELOPMENT STRATEGY" herein.

Port Payments to the City and County of San Francisco. The Port reimburses the City for services provided to the Port by various City departments. Such amounts are included in Operation and Maintenance Expenses as "Charges for Use of City Services" in the table set forth above. Examples of City services include fire protection (fire boat and crew), police protection, audits of the Port leases by the Controller's Office, and legal services provided by the City Attorney's Office. In Fiscal Year 2007-08, these expenses totaled $12.9 million or approximately 21.7% of the Port's total Operations and Maintenance Expenses. The Fiscal Year 2008-09 total included $2.5 million in pass-through charges for such items such as workers' compensation, insurance, electricity, and telephone service.

The Port also reimburses the City for indirect costs based on the City's County-Wide Indirect Cost Allocation Plan. Examples of these City services include materials, supplies and equipment procurement, document processing and financial reporting, and payroll services. In Fiscal Year 2008-09 the Port paid $539,000 for its share of the City's overhead expenses.

Historical Operating Results

A summary of the Port Commission's historical results of operations as reported in the Port Commission's audited financial statements for the Fiscal Year 2004-05 through Fiscal Year 2007-08, and preliminary unaudited results of operations for the Fiscal Year 2008-09, are shown in the table set forth below.

PORT OF SAN FRANCISCO
Historical Results of Operations
For Fiscal Year Ended June 30,
(Amounts in Thousands)

	Audited				Preliminary
Operating Revenues:	2005	2006	2007	2008	2009
Maritime					
Cargo	$5,277	$4,181	$4,151	$4,383	$4,655
Ship Repair	1,021	1,105	1,332	884	975
Harbor Services	997	1,003	887	901	991
Cruise	1,679	2,065	1,763	1,296	1,924
Fishing	1,519	1,609	1,760	1,854	1,972
Other Marine	1,206	1,272	1,392	1,717	1,534
Miscellaneous	166	3	1	1	107
Total Maritime	$11,865	$11,238	$11,286	$11,036	$12,158
Real Estate & Asset Management					
Commercial/Industrial	$34,791	$35,804	$36,497	$40,150	$41,818
Parking	8,599	9,122	10,514	10,891	10,697
Commercial Power Revenues					
Filming & Special Event Revenue	168	333	171	144	114
Miscellaneous	149	116	126	219	107
Total Real Estate & Asset Management	$43,707	$45,375	$47,308	$51,404	$52,736
Other Operating Revenues	$1,871	$1,864	$2,585	$2,059	$1,558
Total Operating Revenues	$57,443	$58,477	$61,179	$64,499	$66,452
Operating Expenses					
Operations & Maintenance	$43,777	$44,893	$50,887	$56,406	$59,707
Depreciation	9,967	9,536	10,254	10,407	11,247
Total Operating Expenses	$53,744	$54,429	$61,141	$66,813	$70,954
Operating Income	$3,699	$4,048	$38	($2,314)	($4,502)
Other Income & (Expenses)					
Interest & Investment Income	$1,698	$2,993	$4,223	$3,613	$2,613
Interest Expense	(1,144)	(900)	(797)	(683)	(544)
Gain/(Loss) on Sale of Assets	(44)	11	(1,158)	(3,767)	3
Other	3,751	733	17,401	198	15
Total Other Income/(Expense) Net	$4,261	$2,837	$19,669	($639)	$2,087
Net Income/(Loss) Before Capital Contribution	$7,960	$6,885	$19,707	($2,953)	($2,415)
Capital Grants and Other Contributions	$13,501	$3,460	$2,225	$3,942	$5,469
Change in Net Assets	$21,461	$10,345	$21,932	$989	$3,054

Source: Port of San Francisco

The following table sets forth historical and estimated Operation and Maintenance Expenses of the Port, based on the categories of expenses discussed above.

PORT OF SAN FRANCISCO
Historical Operations & Maintenance Expenses
For Fiscal Year Ended June 30,
(Amounts in Thousands)

	Audited 2005	Audited 2006	Audited 2007	Audited 2008	Unaudited 2009
Operations & Maintenance					
Personnel Expense[1]	$19,631	$21,047	$24,235	$28,183	$29,053
City-Wide Overhead	(261)[2]	1,013	1,278	335	539
Other Current Expenses	1,906	2,287	2,713	3,048	2,848
Professional & Specialized Services	1,403	1,367	2,066	3,183	4,354
Utility Expenses	1,814	1,829	1,806	2,033	2,004
Materials & Supplies	1,481	1,323	1,510	1,628	1,618
Judgments, Claims & Litigation	267	284	175	290	701[3]
Other Fixed Charges	1,600[4]	165	165	165	165
Office Rent	2,529	2,645	3,021	3,074	3,097
Amortization of Dredging Expense	2,568	1,256	2,316	1,965	1,769
Bad Debt Expense (net of recoveries)	986[5]	171	250	337	313
Charges for Use of City Services	9,749	11,391	11,184	12,069	12,927
Other Operating & Maintenance Exp. (net)	113	115	168	96	319
Total Operations & Maintenance Exp.	$43,786	$44,893	$50,887	$56,406	$59,707

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1 Includes the costs for retiree benefits other than pensions (i.e., retiree medical benefits) of $2,850 for 2008 and 2009. Beginning in 2008, the Port began accounting for its obligations related to postemployment healthcare and other postemployment benefits in accordance with the Government Accounting Standards Board (GASB) Statement No. 45.

2 The credit balance reported for 2005 is the result of an adjustment made by the City to correct for over billings to the Port by the City in previous years.

3 The relatively high expense for 2009 is due, in part, to the settlement of a claim from a Port tenant alleging breach of contract.

4 The charge for 2005 includes an operating subsidy payment to operator of the Pier 80 terminal operator pursuant to a cargo terminal operating agreement. The subsidy payments ended when the operating agreement was amended in January, 2005.

5 The relatively high bad debt expense for 2005 primarily reflects past due rent owed by Specialty Crushing, a Port tenant. The company filed for bankruptcy in June, 2005, and the debt was written off in January, 2008.

Source: Port of San Francisco.

Operation and Maintenance expenses increased by $15.9 million or 38.4% between Fiscal Years 2004-05 and 2008-09. Expenses increased in each of the past five fiscal years, with the largest increases occurring in Fiscal Years 2006-07 and 2007-08. The increases reflect:

(i) Higher personnel costs as a result of retirement and healthcare cost increases and higher salaries, particularly in 2007 due to a 7% wage increase that most employees received in exchange for paying (by payroll deduction) 7.5% of their salary into the City's retirement system. Personnel cost for 2008 and 2009 also include a $2.8 million charge for the cost of retiree benefits other than pensions (i.e. retiree medical benefits). Beginning in 2008, the Port began accounting for its obligations related to postemployment healthcare and other postemployment benefits in accordance with the Government Accounting Standards Board Statement No. 45 (see "—Employee Benefit Plans");

(ii) Higher office expense due, in large part, to a scheduled 18.5% rent increase that went into effect February 2006;

(iii) Costs associated with environmental studies, conceptual design, community planning efforts, and other professional services undertaken, in part, to support on-going planning and development projects; and

(iv) Increased costs of services received from other City departments, in particular City Attorney costs (a portion of which was related to litigation expenses that are not expected to recur or to recur in a lesser magnitude in the future), and charges from the Fire Department for providing fire protection. See "—Operation and Maintenance Expenses – Port Payments to the City and County of San Francisco" above.

See "SECURITY AND SOURCES OF PAYMENT FOR THE BONDS—Pledge of Net Revenue Under the Indenture" for the definition of "Operation and Maintenance Expenses" set forth in the Indenture, used in the calculation of Net Revenue for purposes of the Port's covenant to maintain debt service coverage on the Bonds.

Historical Debt Service Coverage

The following table sets forth historical information relating to the Port's debt service coverage. The historical debt service coverage ratios of Net Revenue to debt service on the Port Commission's Refunding Revenue Bonds, Series 2004 (the "2004 Bonds") are shown in the following table, calculated in accordance with the Indenture associated with those bonds. The 2004 Bonds were fully repaid and retired on July 1, 2009.

PORT OF SAN FRANCISCO
Historic Debt Service Coverage
For Fiscal Years Ended June 30,
(Amounts in Thousands)

	2005	2006	2007	2008	2009[1]
Revenues [2]					
Maritime [3]	$11,865	$11,138	$11,286	$11,036	$12,158
Real Estate & Asset Management	43,707	45,375	47,308	51,404	52,736
Interest Income [4]	1,603	2,951	2,797	2,298	1,658
Other Operating Revenue	1,945	2,283	2,600	2,059	1,558
Total Revenues	$59,120	$61,747	$63,991	$66,797	$68,110
Operating Expenses [2]					
Operations & Maintenance [5]	$41,218	$43,637	$48,571	$54,441	$57,938
Total Operating Expenses	$41,218	$43,637	$48,571	$54,441	$57,938
Net Revenues	$17,902	$18,110	$15,420	$12,356	$10,172
Debt Service [6]	$ 4,932	$3,944	$4,428	$4,418	$4,407
Debt Service Coverage	**3.63x**	**4.59x**	**3.48x**	**2.80x**	**2.31x**

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1 Unaudited results.

2 Determination of revenues and expenses in accordance with the 2004 Refunding Revenue Bond Indenture. Amounts derived from financial reports which have been audited, and adjusted for elements discussed in footnotes 3 to 5.

3 In Fiscal Year 2006, excludes $100,000 EPA grant to reimburse the Port for rent credits given to cruise ship companies for their use of low sulfur fuel.

4 Interest income from funds on deposit with the City Treasurer plus late charges from tenants.

5 Excludes amortized dredging costs. Results for Fiscal Years 2007-08 and 2008-09 include costs for other postemployment benefits.

6 Reflects debt service on the Port's 2004 Refunding Revenue Bonds, which were retired on July 1, 2009.

Source: Port of San Francisco.

Projected Operating Results

The following table presents projected operating results for the Port over the five-year period from Fiscal Year 2009-10 to Fiscal Year 2014-15. These projections are based on an analysis of historic trends, adjusted where appropriate for known or anticipated changes in operations. Port management believes that these projections are based upon reasonable assumptions; however, the Port can give no assurance that the actual financial results will conform to these projections. The major assumptions used by Port management in the development of these projections are set forth in the discussion following the table. See "CERTAIN RISK FACTORS" herein. See also the cautionary statement regarding forward-looking statements in this Official Statement set forth at the beginning of this Official Statement.

PORT OF SAN FRANCISCO
Projected Results of Operations
For Fiscal Year Ending June 30,
(Amounts in Thousands)

	2010	2011	2012	2013	2014	2015
Operating Revenues						
Maritime						
Cargo	$4,282	$4,412	$4,850	$4,991	$5,116	$5,262
Ship Repair	974	974	974	1,024	1,074	1,074
Harbor Services	1,004	1,444	1,905	1,955	2,007	2,058
Cruise	1,800	1,844	1,950	2,113	2,177	2,275
Fishing	2,007	2,038	2,078	2,119	2,163	2,206
Other Maritime	1,656	1,666	1,717	1,759	1,772	1,815
Miscellaneous	0	0	0	0	0	0
Total Martime	$11,723	$12,378	$13,474	$13,961	$14,309	$14,690
Real Estate & Asset Management						
Commercial/Industrial	$42,906	$44,899	$45,828	$47,799	$52,248	$54,561
Parking	12,644	13,899	14,065	14,299	14,545	14,795
Filming & Special Event Revenue	125	100	100	100	100	100
Miscellaneous	105	105	105	105	105	105
Total Real Estate & Asset Management	$55,780	$59,003	$60,098	$62,303	$66,998	$69,561
Other Operating Revenue	$2,207	$1,133	$856	$1,045	$1,501	$2,344
Total Operating Revenues	$69,710	$72,514	$74,428	$77,309	$82,808	$86,595
Operating Expenses						
Operations & Maintenance	$61,793	$64,536	$67,149	$70,348	$73,456	$76,321
Depreciation	11,248	11,247	12,206	13,518	15,747	15,747
Total Operating Expenses	$73,041	$75,783	$79,355	$83,866	$89,203	$92,068
Operating Income	($3,331)	($3,269)	($4,927)	($6,557)	($6,395)	($5,473)
Other Income & (Expenses)						
Interest & Investment Income	$2,224	$2,373	$2,477	$2,548	$2,503	$2,504
Interest Expense	(1,847)	(3,528)	(5,195)	(6,831)	(6,783)	(6,658)
Gain/(Loss) on Sale of Assets	0	0	0	0	0	0
Extraordinary Items	0	0	0	0	0	0
Total Other Income/(Expense) - Net	$377	($1,155)	($2,718)	($4,283)	($4,280)	($4,154)
NET INCOME/(LOSS) Before Capital Contribution	($2,954)	($4,424)	($7,645)	($10,840)	($10,675)	($9,627)
Capital Grants and Other Contributions	$13,590	$22,270	$3,500	$3,500	$3,500	$3,500
CHANGE IN NET ASSETS	$10,636	$17,846	($4,145)	($7,340)	($7,175)	($6,127)

Source: Port of San Francisco

Major Assumptions Relating to Revenues from Maritime Operations. Maritime revenues are projected to increase by approximately $2.5 million or 20.8% from Fiscal Year 2008-09 to Fiscal Year 2014-15. The increase is primarily due to higher rental revenues projected as a result of scheduled rent increases and cost of living rent adjustments for the Port's maritime leases. Major assumptions incorporated into these projections are further described below.

Cargo. Cargo revenue increases principally reflect annual cost of living and other rent increases associated with long-term leases with cargo tenants. The projections assume that no major new cargo business at Pier 80 will be added during the forecast period.

In Fiscal Year 2008-09 breakbulk operations generated approximately $520,000 in vessel revenues, but an estimated $855,000 operating subsidy paid to the cargo terminal operator resulted in an operating loss of $375,000 on breakbulk operations. The projections assume that these operating losses will decline as the economic situation improves and be at breakeven by Fiscal Year 2014-15. Maritime leases for bulk aggregate and sand have both fixed lease rents and annual tonnage minimums that mitigate the impact of the economic downturn. Tonnages are projected only at annual minimums and do not include revenue from any increases that could result from economic recovery.

Ship Repair. Projected revenue represents the minimum annual base rent under the long term lease with the Port's sole ship repair tenant. The lease provides for overage rent; however, none has been assumed during the forecast period because the lease provides for credits to offset costs associated with enhancement of the drydock to accommodate post-Panamax ships.

Harbor Services. A new lease with San Francisco Bar Pilots includes scheduled, fixed rent increases through 2015 and will result in over $900,000 in additional revenue over the projection period.

Major Assumptions Relating to Real Estate Development Projects. The Port is currently in negotiations with developers on the following major development projects. See "PORT FINANCIAL OPERATIONS—Real Estate Portfolio and Asset Management" and "— Real Estate Development Projects" herein.

- Piers 15-17 Exploratorium
- Seawall Lot 351
- Seawall Lot 337 & Pier 48

The projections assume that these developments are constructed and completed in accordance with current timetables.

These projects have a significant effect on projected Real Estate and Asset Management and Other Operating Revenues over the forecast period. Real Estate and Asset Management revenues are negatively affected during the construction phase as rental income during this phase is significantly lower than that received from the facility prior to the start of the development. This loss is partially offset by permit and development fees income generated, which are components of Other Operating Revenue.

The following major impacts to Port Revenues from these real estate development projects are incorporated into these projections.

PORT OF SAN FRANCISCO
Projected Impact of Major Real Estate Development on Operating Revenue
For Fiscal Year Ending June 30,
(Amounts in Thousands)

	2010	2011	2012	2013	2014	2015
Revenue Additions						
Additions To Other Operating Revenue						
Permit Fees	$876	$0	$0	$3	$601	$1,488
Development & Other Fees	600	400	120	300	150	100
Additions To Real Estate Revenues						
Commercial/Industrial Revenue		783	963	2,365	6,239	7,823
Parking Revenue	0	0	0	0	0	0
Total Additions	$1,476	$1,183	$1,083	$2,668	$6,990	$9,411
Revenue Reductions:						
Reduction in Real Estate Revenues						
Commercial Industrial Revenue	($302)	($1,206)	($1,371)	($1,671)	($1,825)	($1,860)
Parking Revenue	(13)	(51)	(144)	(179)	(182)	(186)
Total Reduction in Real Estate Revenues	($315)	($1,257)	($1,515)	($1,850)	($2,007)	($2,046)
Reduction in Maritime Revenues	0	0	0	0	0	0
Total Reductions	($315)	($1,257)	($1,515)	($1,850)	($2,007)	($2,046)
Effect on Operating Revenues	$1,161	($74)	($432)	$818	$4,983	$7,365
Development & Other Operating Costs[1]	($839)	($627)	($563)	($681)	($1,168)	($1,978)
Net Effect on Operating Revenue	$322	($701)	($995)	$137	$3,815	$5,387

[1] Represents payments to the City's Department of Building Inspection for inspection services, City Attorney costs attributable to development projects, and accretion expense associated with capital improvements to Pier 15 that are the responsibility of the Port, but paid for by the developer.

Source: Port of San Francisco.

Major Assumptions Relating to Real Estate and Asset Management Revenues. Real Estate revenues are projected to increase by approximately $16.8 million, or 31.9%, from Fiscal Year 2008-09 to Fiscal Year 2014-15. The increase reflects increased parking income stemming largely from new operating agreements for several Port parking lots and higher commercial and industrial rental income as a result of: (i) increased base rents from scheduled rent increases and cost of living rent adjustments of tenant leases, (ii) higher percentage rental income, and (iii) new lease income attributable, in large part, to revenues generated from the real estate development projects planned over the projection period (as outlined in the above table). Revenues from new leases with Trans Bay Cable LLC and a new rock crushing tenant in Southern Waterfront are also significant contributors to the higher commercial and industrial income projected. Major assumptions incorporated into these projections include the following:

Commercial/Industrial. Revenue forecasts include scheduled rent increases and cost of living increases. CPI assumptions used were 0% for Fiscal Year 2009-10, 0.5% for Fiscal Year 2010-11, 1% for Fiscal Year 2011-12 and 2% annually thereafter. Percentage rates set in existing leases are assumed to remain unchanged throughout the forecast period. Revenues generated by the development projects funded, in part, by the Bonds (and included in projected commercial/industrial revenues) are as follows:

Fiscal Year Ended June 30,	Revenues (in 000s)
2012	$ 126
2013	1,474
2014	5,323
2015	6,881

Other sources of additional revenues include $1 million per year from Trans Bay Cable beginning in Fiscal Year 2009-10, and additional revenues from a tenant at Pier 96. Base rent for this tenant is scheduled to increase by $270,000 in Fiscal Year 2009-10, and will be subject to a market rate adjustment in Fiscal Year 2011-12.

Parking. The increase in parking revenues forecast for Fiscal Year 2009-10 and thereafter reflects: (i) the rebidding of parking lot operating agreements for parking lots in Fisherman's Wharf and Northern Wharf, for which the new agreements are expected to generate significant additional revenue beginning in mid Fiscal Year 2009-10, and (ii) the recently-completed installation of new parking meters that permit flexible pricing based on parking demand, which is typically higher during certain times of day and during baseball games and other special events. Additional revenues from a new operating agreement for the parking lot at SWL 337 are projected for Fiscal Year 2010-11 and thereafter.

Major Assumptions Relating to Operations and Maintenance Expenses. Total operations and maintenance expenses are projected to increase by $16.5 million, or 27.3%, from Fiscal Year 2008-09 to Fiscal Year 2014-15. The increase is the result of rising personnel cost due in large part to higher health and retirement plan benefit costs, general expense increases resulting from inflation costs associated with the major real estate developments that are planned over the next six years, and higher utility expenses reflecting anticipated increases in water rates over the projected period. With the exception of personnel, the projections assume the following annual increases in most expense items: 1% for Fiscal Year 2009-10 (consistent with actual increase in the Port's expense budget for Fiscal Year 2009-10), and 5% thereafter. Other major assumptions incorporated into these projections include:

Salary and benefits. The projections assume the addition of three staff positions in Fiscal Year 2011-12, and another three staff positions in Fiscal Year 2012-13. Increased personnel costs from these new positions is estimated to be $659,000 by Fiscal Year 2012-13.

The projections reflect salary increases of 0% in Fiscal Year 2009-10, 0.5% in Fiscal Year 2010-11, 3% in Fiscal Year 2011-12, and 2% thereafter. The relatively flat salary growth over the first two years of the projections reflects recently renegotiated contracts with most labor unions. Assumptions for personnel benefit costs used in a three-year projection of the City's general fund budget, prepared by the City's Controller's Office, were incorporated into the Port's projections. These assumptions include: (i) retirement plan employer contribution of 9.49% of total salaries in Fiscal Year 2009-10, 11.98% in Fiscal Year 2010-11, and 14.79% in Fiscal Year 2011-12 (14.79% was also used for the remaining projected period); and (ii) increases in health, dental and other benefit cost of 4.5% in Fiscal Year 2009-10, and 5.15% in each Fiscal Year thereafter. The projections also include estimated charges for other post employment benefits of $3.2 million in Fiscal Year 2009-10, increasing by $200,000 annually thereafter.

Utilities. Utility expenses are projected to increase $1.2 million from Fiscal Year 2008-09 to Fiscal Year 2014-15. Underlying utility costs are projected to increase 10% annually, reflecting water and other utility rate increases anticipated over the projected period. Projected utility expenses also include loan payments to the San Francisco Public Utility Commission ("SFPUC") associated with loan to cover the cost of energy efficient improvements being installed at the Port by the SFPUC. Energy savings are estimated to approximately equal the loan payments

during the term of the loan. After the loan is repaid in Fiscal Year 2014-15, the Port is expected realize annual savings of $301,000 on its energy bill.

Other Notable Increase in Projected Expenses. Projected Operations and Maintenance Expenses also include the following:

Development and other operating costs connected with the major real estate developments that are planned for the next six years, as shown in the table under "—Major Assumptions Relating to Real Estate Development Projects" above. These costs represent: (i) additional City Attorney costs incurred by the Port which are directly attributable to these development projects, (ii) payments to the City Department of Building Inspection for inspection services related to these development projects, and (iii) an accretion expense that is associated with capital improvements being made to Pier 15 by the Exploratorium, but that is the responsibility of the Port.

A $301,000 increase in payments in Fiscal Year 2009-10 to the City's Department of Parking and Traffic to cover the maintenance cost of the new parking meters that were recently installed at the Port. Previously the Port maintained its own parking meters.

Major Assumptions Relating to Depreciation and Amortization. Total depreciation and amortization expense is projected to increase by $21.1 million, or 29.8%, from Fiscal Year 2008-09 to Fiscal Year 2014-015 as a direct result of depreciation associated with the major real estate developments and other large capital improvements that are planned over the projected period. For the projections, depreciation was computed using the straight-line method applied over the estimated useful life of the assets. The estimated useful life of the Pier 15 improvements was assumed to be 50 years. Substructure and pier improvements were assumed to have a useful life of 50 years. The estimated useful life of building and other improvements was assumed to be 35 years.

Major Assumptions Relating to Interest Expense. Interest expense is projected to increase by $6.1 million, reflecting the interest expense associated with the Bonds and another issue of revenue bonds anticipated for the fall of 2011. Projection assumptions used for these two revenue bond issues were as follows:

Revenue Bond	Issue Size	Term	Interest Rate
Series 2009	$48,094,500	30 years	7.00%
Series 2011	47,825,500	30 years	7.00

Principal is assumed to be paid annually and interest, semi-annually.

Major Assumptions Relating to Capital Grants and Other Capital Contributions. The Port estimates that it will receive $49.9 million in grant funding and capital contributions over the next six years, broken down as follows:

Grant Type/Funding Source	Amount (in millions)
City G.O. Bond Funds	$29.0
Trans Bay Cable Open Space Funds	3.3
Security Grants	4.1
Pier 45 Stormwater Improvement Grant	1.5
Other Grants & Contributed Capital	12.0
Total	$49.9

The Trans Bay Cable funds represent a portion of approximately $5.5 million that the Port will receive over the next ten years from Trans Bay Cable for the construction of open space improvements in the southern waterfront. The payments are being made pursuant to terms of a lease that Trans Bay Cable has with the Port.

Projected Debt Service Coverage

The projected debt service coverage ratios of Net Revenue to debt service on the Bonds shown in the following table are calculated in accordance with the Indenture. Such information constitutes "forward-looking statements." A discussion of the major assumptions that underlie the revenue projections reflected in the following table is set forth above, and a discussion of certain risk factors affecting the achievement of Revenue and Net Revenue is set forth under the caption "CERTAIN RISK FACTORS" below, but no assurance is given that actual results will meet the Port Commission's forecasts in any way. Such discussion is not intended to address all possible risks and uncertainties relating to the achievement of such results. Changes in the circumstances that form the bases for the assumptions used in developing these projections as well as unanticipated events may occur subsequent to the date of this Official Statement. Differences between forecasted results and actual results may be material.

PORT OF SAN FRANCISCO
Projected Debt Service Coverage
For Fiscal Years Ended June 30,
(Amounts in Thousands)

	2010	2011	2012	2013	2014	2015
Revenue Additions						
Maritime	$11,723	$12,378	$13,474	$13,961	$14,309	$14,690
Real Estate & Asset Management	55,780	59,003	60,098	62,303	66,998	69,591
Interest Income [1]	1,143	1,349	1,645	1,940	2,087	2,087
Other Operating Revenue [2]	2,207	1,133	856	1,045	1,501	2,344
Total Revenues	$70,853	$73,863	$76,073	$79,249	$84,895	$88,712
Operating Expenses						
Operations & Maintenance[3]	$56,572	$57,558	$60,204	$63,342	$66,094	$69,119
Total Operating Expenses	$56,572	$57,558	$60,204	$63,342	$66,094	$69,119
Net Revenues	$14,281	$16,305	$15,869	$15,907	$18,801	$19,593
Total Debt Service[4]	$1,683	$3,858	$5,531	$7,692	$7,725	$7,686
Projected Debt Service Coverage	**8.49x**	**4.23x**	**2.87x**	**2.07x**	**2.43x**	**2.55x**

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[1] Interest income from funds on deposit with the City Treasurer plus late charges from tenants.

[2] Includes certain non-recurring permit fees and income from developers.

[3] Excludes the following: (i) amortized dredging costs, (ii) a non-cash acretion expense associated with the Exploratorium ground lease for Pier 15, and (iii) non-cash charges associated with other post-employment benefits.

[4] Reflects debt service as follows for the Bonds and subsequent projected Port Commission revenue Bond issues: $48,094,500 in Fiscal Year 2009-10; $47,825,500 in Fiscal Year 2011-12; $12,456,500 in Fiscal Year 2012-13; and $11,222,000 in Fiscal Year 2013-14. The loan term is assumed to be 30 years, and the interest rate is assumed to be 7%, for all Port Commission revenue bond issues.

Source: Port of San Francisco.

Investment Policy and Investments

The Port maintains its operating fund cash and investments and a portion of its restricted asset cash and investments, including moneys constituting the Revenue of the Port, as part of the City's pool of cash and investments. Moneys deposited by the Port with the Trustee in the funds and accounts relating to the Bonds are

invested in investments constituting "Permitted Investments" under the Indenture, as described in Appendix B—"SUMMARY OF THE LEGAL DOCUMENTS— The Indenture" herein.

The Port of San Francisco Fund (the "Port Fund") was established in 1969 after the Harbor of San Francisco was transferred from the State of California to the City, and is invested by the Treasurer of the City and County of San Francisco (the "City Treasurer") for the benefit of the Port. The Port of San Francisco Fund and the various accounts and subaccounts therein are managed and invested by the City Treasurer pursuant to the Investment Policy of the City and County of San Francisco (the "Investment Policy") and the California State Government Code as part of the City's investment pool. The City has established a Treasury Oversight Committee (the "Oversight Committee"), comprised of various City officials and representatives of agencies with large cash balances to monitor and review the management of public funds (including the Port Fund) invested by the City Treasurer. The City Treasurer provides monthly reports on the status of the investment portfolio to the Board of Supervisors, City Controller, the Mayor, members of the Oversight Committee, and investment pool participants.

Under the Treasurer's current investment procedures, amounts in the Port Fund are invested in Permitted Investments in accordance with the City's Investment Policy. The objectives of the policy are, in order of priority: preservation of capital, liquidity, and yield. The policy addresses the soundness of financial institutions in which the City will deposit funds, types of investment instruments as permitted by the California Government Code, and the percentage of the portfolio which may be invested in certain instruments with longer terms to maturity. The Treasurer's investment pool consists of two components: 1) pooled deposits and investments and 2) dedicated investment funds.

Substantially all investments are carried at fair value. The fair value of pooled investments is determined annually and is based on current market prices. The fair value of participants' position in the pool is the same as the value of the pool shares. The method used to determine the value of participants' equity withdrawn is based on the book value of the participants' percentage participation at the date of such withdrawal. In the event that a certain fund overdraws its share of pooled cash, the overdraft is reported as due to the General Fund. Certain US government securities that have a remaining maturity at time of purchase of one year or less are carried at amortized cost, which approximates market value.

For reports on the external investment pool, contact the Office of the Treasurer, Room 140, City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

Set forth in the table below are the investment distribution in the Port Fund as of June 30, 2009. The Treasurer calculated the current weighted average maturity of these investments as of June 30, 2009 to be approximately 576 days.

PORT OF SAN FRANCISCO
Investment Portfolio of Port Assets
As of June 30, 2009

Type of Investment		Par Amount
Agency	Fannie Mae	$13,438,087
	Federal Farm Credit	4,100,411
	Federal Home Loan Bank	11,914,718
	Freddie Mac	13,612,019
Treasury	Treasury Bills	7,562,233
	Treasury Notes	11,934,884
TLGP		18,519,068
Time Deposits		514,232
Collateralized CDs		13,107,870
TOTAL		$94,703,520

Source: Office of the Treasurer, City and County of San Francisco.

Risk Management and Insurance

The Port Commission utilizes the services of the City's Risk Manager. The Risk Manager advises the Port Commission and is responsible for directing and coordinating the purchase of insurance and the recovery for insured and uninsured losses. Liability claims are administered by the City Attorney's Office and the Risk Manager.

The Port Commission imposes certain risk transfer requirements on its tenants, vendors and contractors. The Port Commission's policies generally require that each agreement with an entity doing business with the Port contain provisions to defend and indemnify the Port Commission from losses arising out of that entity's activities and to maintain specified levels of insurance coverage as a financial guarantee. The Port Commission and the City are named as additional insureds under those policies. Rental income and business interruption insurance may be required from tenants to be maintained on property leased or assigned. Rental income insurance provides for the continuation of payments in case of fire or other extended coverage loss for the time required to repair or reconstruct damaged facilities.

In November 2007, the Port Commission adopted an environmental risk management policy and financial assurance requirements for Port tenants with real property agreements. The purpose of the policy is to manage risk and minimize the Port's potential environmental liability. Pursuant to the policy, every new lease, lease renewal, lease amendment, sublease, lease assignment, license, and permit to enter is subject to review for applicability of the Port financial assurance requirements. Tenants whose operations are determined by Port staff to pose a significant environmental risk are required to post a $10,000 environmental oversight deposit to be used to reimburse the Port for staff costs and administrative expenses associated with a notice of violation or enforcement action issued to the tenant by an environmental regulatory agency. In addition, an environmental performance deposit, in the form of cash, a Standby Letter of Credit, or other form of deposit acceptable to the Port Commission, may be required to cover any cost incurred by the Port caused by the tenant's failure to meet any of its environmental obligations. The size of the environmental performance deposit is determined by Port environmental staff after an assessment of the tenant's operations, and the estimated clean up cost of a tenant-caused environmental incident.

The Port Commission is required to maintain throughout the term of the Indenture insurance or Qualified Self-Insurance on the Port Area against such risks as are usually insured by other ports which are similar in their operations to the Port Area. Such insurance or Qualified Self-Insurance shall be in an adequate amount as to the risk insured against as determined by the Port Commission. The Port Commission need not carry insurance or Qualified Self-Insurance against losses caused by land movement, including but not limited to seismic activity. The Port Commission may self insure against any of the risks required to be insured against. The Indenture further provides that Qualified Self-Insurance is to include reserves or reinsurance in amounts which the Port Commission determines to be adequate to protect against risks assumed under such Qualified Self-Insurance, including without limitation any potential retained liability in the event of the termination of such Qualified Self-Insurance.

The Port Commission purchases commercial insurance policies to cover catastrophic and other losses, other than earthquake risk, that cannot prudently be assumed by the Port Commission. Those policies currently include all categories of insurance coverage that the Port Commission deems reasonable in light of its current operations. Total commercial insurance premiums for all coverage for Fiscal Year 2009-10 is approximately $1.7 million.

The Port Commission pays worker's compensation claims out of current revenues and budgetary reserves. The Port Commission paid approximately $631,000 in Fiscal Year 2008-09 and $865,000 in Fiscal Year 2007-08 for this purpose.

The Port Commission does not maintain commercial insurance coverage for property damage resulting from earthquakes other than on the marine terminal container cranes. Commercial earthquake insurance is not available at commercially reasonable rates, with both premiums and deductibles being prohibitively high. The Port Commission does not expect to maintain commercial earthquake insurance coverage in the foreseeable future. Other risks, such as losses to its fleet of vehicles from terrorist activities, are not covered by any Port commercial insurance policies. The Port Commission would expect to address any losses resulting from any uninsured casualty or occurrence, in whole or in part, from FEMA grant funds, as and to the extent such grant funds are available, and from its budgetary reserves.

With the assistance of the City Risk Manager, the Port has begun the process of implementing an enterprise risk management program. The goals of the program are to: (i) identify risks and their impact on Port operations, (ii) optimize risk taking by minimizing threats and enhancing opportunities; and (iii) reduce uncertainty. As the first phase of the implementation, the Port has formed an enterprise risk management working group to identify and assess risks at the Port focusing on their impact and likelihood of occurrence. In later phases, the Port will develop a risk management policy, and tools will be implemented to monitor and manage risk.

Labor Relations and Retirement Plans

As a department of the City, the Port's employment policies are governed by the City Charter which, since 1976, has prohibited strikes by City employees. The Charter authorizes the San Francisco Civil Service Commission to establish rules and procedures to implement Charter mandates.

As of June 30, 2009, the Port had 218 full-time employees. There are presently 18 labor unions representing Port employees. With the exception of the Port Executive Director, all Port employees bargain collectively for wages, hours, benefits and other conditions of employment.

Collective bargaining agreements are generally adopted for a term of one to three years. Impasses between the represented employees and the City in collective bargaining are resolved by an arbitration panel whose decisions are final. There have been no strikes by City employees since the adoption in 1976 of the strike prohibition.

The Port's employees participate in the retirement plan established by the City for all City employees (the "Plan"). The Port is responsible for employer contributions to the Plan on behalf of Port employees. Employer contributions are a component of the Port's Operation and Maintenance Expenses.

Under the various collective bargaining agreements of the City covering its employees, until 2003 the mandatory employee contributions until had been made by the Port on the behalf of Port employees and for their account. Commencing in 2003, certain groups of employees were required to contribute 2.75% of covered payroll, reducing the Port's obligation. Since Fiscal Year 2003-04, substantially all employees have assumed full responsibility for the mandatory employee contribution pursuant to the Plan (approximately 7.5% of covered payroll). For Fiscal Year 2009-10, the Port Commission estimates the Port's required contribution related to Port employees will be 10.3% of covered salaries of permanent employees, or approximately $2 million. For employees who were " Plan" members prior to November 2, 1976, the City contributes one-half percent (0.5%) for a total 8% employee retirement contribution. The majority of current collective bargaining agreements, which expire in 2010 and 2011, provide for the employee retirement contribution pick-up for all eligible City workers, including Port employees with the exception of one collective bargaining unit representing thirty-two (32) Port employees, or approximately 14.7%.

Employee Benefit Plans

Port employees are City employees, and Port benefit plans are the same as for other employees of the City.

Retirement System Plan Description. The Port participates in the City's single-employer defined benefit retirement plan (the "Plan") which is administered by the San Francisco City and County Employees' Retirement System (the "Retirement System"). The Plan covers substantially all full-time employees of the Port along with substantially all other employees of the City. The Plan provides basic service retirement, disability, and death benefits based on specified percentages of final average salary and provides cost-of-living adjustments after retirement. The Plan also provides pension continuation benefits to qualified survivors. The San Francisco City and County Charter and Administrative Code is the authority which established and amends the benefit provisions and employer obligations of the Plan. The Retirement System issues a publicly available financial report that includes financial statements and required supplementary information for the Plan. That report may be obtained by writing to the San Francisco City and County Employees' Retirement System, 30 Van Ness Avenue, Suite 3000, San Francisco, CA 94102, or by calling (415) 487-7020. Such report is not incorporated by reference herein.

Retirement System Funding Policy. Contributions are made to the basic plan by both the Port and its employees. Employee contributions are mandatory. Employee contribution rates from 2008, 2007 and 2006 varied from 5% to 8% as a percentage of covered payroll. Due to certain bargaining agreements, the Port contributed from 0.5% to 8% of covered payroll on behalf of some employees. In addition, the Port is required to contribute for 2008, 2007 and 2006 at an actuarially determined rate as a percentage of covered payroll of 5.91%, 6.24% and 6.58%, respectively. The required contributions for the Port enterprises are shown in following table.

REQUIRED RETIREMENT CONTRIBUTION
FOR THE FISCAL YEAR ENDING JUNE 30
(IN THOUSANDS)[1]

2006	2007	2008
$1,241	$1,269	$1,258

[1] The City contribution rate effective July 1, 2008 was 4.99%. The rate increased to 9.49% effective July 1, 2009 due to declines in the market value of the Retirement System assets.

Source: Port, Finance

Health Care Benefits. Health care benefits of the Port employees, retired employees and eligible dependents are financed by beneficiaries and by the City through the City and County of San Francisco Health Service System. The Port's annual contribution is determined by a San Francisco Charter provision based on similar contributions made by the ten most populous counties in the State. The annual contribution included $905,067 in Fiscal Year 2008-09, to provide post retirement benefits for retired employees, on a pay-as-you-go basis.

In June 2004, GASB issued Statement No. 45, *Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions*, which addresses how state and local governments should account for and report their costs and obligations related to post employment healthcare and other non-pension benefits. Collectively, these benefits are commonly referred to as other post-employment benefits, or OPEB. The statement generally requires that employers account for and report the annual cost of OPEB and the outstanding obligations and commitments related to OPEB in essentially the same manner as they currently do for pensions. The annual OPEB cost for most employers will be based on actuarially determined amounts that, if paid on an ongoing basis, generally would provide sufficient resources to pay benefits as they come due. This statement's provisions may be applied prospectively and do not require governments to fund their OPEB plans. An employer may establish its OPEB transition liability at zero as of the beginning of the initial year of implementation; however, the unfunded actuarial liability is required to be amortized over future periods. This statement also establishes disclosure requirements for information about the plans in which an employer participates, the funding policy followed, the actuarial valuation process and assumptions, and, for certain employers, the extent to which the plan has been funded over time. As of July 1, 2007, the Port implemented the new reporting requirements in the financial statements and established its OPEB transition liability at zero.

During the Fiscal Year 2007-08, the City implemented GASB Statement No. 45. The City elected to report a zero net OPEB obligation at the beginning of the transition year, July 1, 2007, with the unfunded actuarial liability amortized over future periods. The City has adopted the maximum acceptable amortization period of thirty years.

The City has determined an Annual Required Contribution and OPEB cost based upon an actuarial valuation performed in accordance with GASB 45 by the City's actuaries. The City Unfunded Actuarial Accrued Liability ("UAAL") was $4.0 billion at June 30, 2008. The amount allocable to the Port is ___% or $_____, which will be amortized over thirty years. The difference between the allocation and the $_____ paid for by the Port is $_____ and has been recorded as a net OPEB obligation by the Port as of June 30, 2008. The amount of the Port's UAAL and the amount to be recognized every year may vary as a result of future actuarial assumptions and calculations.

The City issues a publicly available financial report that includes the complete note disclosures and Required Supplementary Information related to the City's post retirement health care obligations. The report may be obtained by writing to the City and County of San Francisco, CA 94102, or by calling the Office of the Controller at (415) 554-7500. Such report is not incorporated by reference herein.

Proposition B. Proposition B, passed by the voters on June 3, 2008, increased the years of service required to qualify for employer-funded retiree health benefits for City employees who were hired on or after January 10, 2009. Employees hired before January 10, 2009, became eligible to participate in the retirement health care system after five years of service, and the employer paid 100% of the contribution. Post Proposition B, between five to ten years there is no employer contribution, at ten to fifteen years there is a 50% contribution, between fifteen to twenty years there is a 75% contribution, and only after twenty years of service will the employer pay 100% of the contribution.

Proposition B also required that a separate Retiree Health Care Trust Fund be created to pay for the City's future costs related to retiree health care. This trust fund will be funded by employer and employee contributions for employees hired on or after January 10, 2009. New employees contribute up to 2% of their pre-tax pay and employers contribute 1%.

Proposition B is expected to reduce the number of people who would eventually have been eligible for paid benefits and create significant savings for the City as investment earnings in the trust will help pay for the cost of the benefits going forward. By 2031 the majority of employees will be under the new benefit plan, and based on the City's actuarial analysis, the proposed funding of 3% of salary is estimated to be sufficient to cover the cost of the benefits on an ongoing basis. Proposition B is also expected to partially reduce the financial impact on the City in meeting its current unfunded OPEB liability.

Wellness Incentive Program. Effective July 1, 2002, the City established a pilot "Wellness Incentive Program" (the "Wellness Program") to promote workforce attendance. Under the Wellness Program, any full-time employee leaving the employment of the City upon service or disability retirement may receive payment of a portion of accrued sick leave credits at the time of separation.

The amount of this payment shall be equal to 2.5% of accrued sick leave credits at the time of separation times the number of whole years of continuous employment times an employee's salary rate, exclusive of premiums or supplements, at the time of separation. Vested sick leave credits, as set forth under Civil Service Commission Rules, shall not be included in the computation.

The Wellness Program shall be discontinued upon the expiration of current bargaining agreements expiring June 30, 2009 through June 30, 2010.

CERTAIN RISK FACTORS

This section provides a general overview of certain risk factors which should be considered, in addition to the other matters set forth in this Official Statement, in evaluating an investment in the Bonds. This section is provided for convenience and is not meant to be a comprehensive or definitive discussion of the risks associated with an investment in the Bonds, and the order in which this information is presented does not necessarily reflect the relative importance of various risks. Potential investors in the Bonds are advised to consider the following factors, among others, and to review this entire Official Statement to obtain information essential to the making of an informed investment decision. Any one or more of the risk factors discussed below, among others, could lead to a decrease in the market value and/or in the marketability of the Bonds or adversely affect the ability of the Port Commission to make timely payments of principal of or interest on the Bonds. There can be no assurance that other risk factors not discussed herein will not become material in the future.

Bonds Are Limited Obligations

The Bonds are special, limited obligations of the Port Commission secured by and payable solely from Net Revenue and from moneys held in certain funds and accounts established pursuant to the Indenture. The Bonds are not a debt or obligation of the City and County of San Francisco, the State of California or any political subdivision

thereof (other than the Port Commission payable solely from Net Revenue). Neither the credit nor the taxing power of the City and County of San Francisco, the State of California or any political subdivision thereof is pledged to pay the principal of and interest on the Bonds. The Port Commission has no taxing power. In the event of default by the Port Commission in the payment of principal of and interest on the Bonds, the remedies of the Bondholders may be limited.

Limitation on Remedies

The Indenture provides only limited remedies to Bondholders in the event of a default by the Port Commission. The enforceability of the rights and remedies of the owners of the Bonds and the Trustee under the Indenture in the event of a default by the Port Commission may be subject to the following: limitations on legal remedies available against cities in California; the federal bankruptcy code and other bankruptcy, insolvency, reorganization, moratorium and similar laws relating to or affecting the enforcement of creditors' rights generally, now or hereafter in effect; principles of equity which may limit the specific enforcement under State law of certain remedies; and the delay and uncertainty inherent in legal proceedings. The enforceability opinion of Co-Bond Counsel will be made subject to such limitations on remedies. See Appendix E— "PROPOSED FORM OF LEGAL OPINION OF CO-BOND COUNSEL" herein.

Condition of Port Facilities

Most capital assets comprising the Port are at least 40 years old, are reaching the end of their useful structural life and have not been rehabilitated in recent years. The age and condition of Port facilities, combined with their construction on filled tidelands in a high-risk seismic area, means that most Port facilities need capital improvements in order to be functional, code compliant and in usable condition in service of the mission of the Port, whether they are continued in their current use, transformed to a new or enhanced use or removed from service. The Port has demolished or removed from service a number of facilities over the past 40 years, including some facilities that had been generating revenue for the Port, and, in the absence of funding for needed capital improvements, the Port may need to remove additional revenue-generating facilities from service in the future. See "PORT CAPITAL PLAN AND DEVELOPMENT STRATEGY." The Port envisions the need for further development of its facilities and property, much of which requires legislative and regulatory approvals, to address its capital shortfall. If the Port fails to complete these development projects, Port facilities will continue to deteriorate, which may lead to significant reductions in Net Revenue.

Certain Economic and Other Constraints on Port Revenue

The ability of the Port to maintain or increase revenue growth in the future may be affected by a variety of economic, legislative and regulatory factors that are outside of its direct control.

The Port operates pursuant to many legislative and regulatory constraints that significantly restrict its ability to maximize the revenue-generating activities of its waterfront properties. These legislative and regulatory constraints, including the current Waterfront Land Use Plan and Waterfront Special Area Plan, materially inhibit the Port in maximizing the commercial revenue-generating opportunities available for the Port's properties. In addition, the Port is subject to many of the same economic and competitive factors affecting other commercial and real estate business enterprises in the region.

The transfer of the Port to the jurisdiction of the City in 1969 was made in trust for the people of California. The public trust doctrine directs the use and development of Port properties. The public trust doctrine, as codified in the Burton Act and the related Transfer Agreement, mandated the following missions for the Port: (1) to promote navigation, fisheries and maritime commerce, (2) to protect natural resources, and (3) to develop recreational facilities that attract people to enjoy the Bay and the waterfront. See Appendix F— "SUMMARY OF THE BURTON ACT, TRANSFER AGREEMENT AND RELATED STATE LEGISLATION." The public trust doctrine has been clarified over time by the Attorney General, the State Lands Commission and the Bay Conservation and Development Commission.

The Port's properties are also subject to the Waterfront Land Use Plan, adopted in June 1997, which was developed by the Port Commission through a public consensus process to provide a framework for all future development of Port property. Analyses conducted concurrently with the development of the Waterfront Land Use Plan concluded that, while the Waterfront Land Use Plan had significantly expanded the scope of revenue-generating activities that could be developed on Port property, changes in the regulatory environment were required and other funding and financing mechanisms were needed for the Port to carry out its missions. Required regulatory changes have been achieved with the City and with BCDC, and additional regulatory changes are being pursued by the Port. However, additional changes will likely be required. The Port can give no assurances that such changes will be granted.

The Port's properties suffer from a significant amount of deferred maintenance and/or desirable capital improvements. In order to promote its mission to foster and promote navigation, fisheries and maritime commerce, the Port is obligated to preserve significant waterfront historic resources that have great significance to the region and the nation but that are very costly for the Port to maintain and upgrade. The cost of needed repairs and seismic upgrades to all of the Port's properties has been estimated to be upwards of $2 billion. See "PORT CAPITAL PLAN AND DEVELOPMENT STRATEGY" herein.

The public trust doctrine gives priority to maritime, visitor-serving retail and other uses which do not necessarily generate maximum revenue from the Port's waterfront land. Certain maritime revenue sources, such as the Port's container and breakbulk shipping lines and fishing harbor, have deteriorated over time and do not generate sufficient revenue to allow these maritime activities to be self-sufficient enterprises. In response, the Port has focused its efforts on expanding bulk cargo, harbor services, cruise and ship repair maritime lines and its commercial (non-maritime) real estate operations. Other priority public trust uses, such as protection of natural resources and open spaces, do not provide any direct revenue and involve on-going Operation and Maintenance Expense. The public trust doctrine prohibits housing on Port property and limits general office to portions of historic Port facilities that are rehabilitated according to standards published by the U.S. Secretary of the Interior. The public trust doctrine permits interim leasing of Port property for uses that are not consistent with the public trust (e.g., general office) for short periods of time, in most cases not to exceed five years, in order to generate funds for the Port's Harbor Fund.

General Economic Risk and Real Estate Risk

The Port's Revenue is derived primarily from property leases to commercial and industrial enterprises. The Port's lease tenants are subject to competitive conditions and other business and economic factors that may affect their ability to pay rent to the Port. See "PORT REAL ESTATE PORTFOLIO" herein. Any tenant of the Port may elect not to renew its lease upon expiration of the lease term. The ability of such businesses to continue in operation, and to pay rent to the Port, may be compromised in the event of an economic downturn, failure of such businesses or their lease tenants to perform, mismanagement, lawsuits, increased operating expenses, and similar business risks, or in the event of a natural or other disaster and similar occurrences, and may be adversely affected by their ability to collect under their insurance policies in the event of any occurrence of a casualty. In the event of a business downturn, a Port tenant may fail to make lease payments when due, may decline to renew an expiring lease, may become insolvent or may declare bankruptcy. Any such non-performance or default by a tenant under the lease will have an adverse impact on the Port's Revenue. Nonperformance by a significant tenant could have a serious long-term impact on the Port's financial condition. Even if, under the terms of the lease, the Port is able to terminate the lease and evict the tenant, the Port may have difficulty in securing another tenant. The terms of any new lease may not be as favorable as the prior lease and may be on substantially less attractive terms.

The Port Commission's ability to make principal and interest payments on the Bonds is dependent upon the generation of Revenue, which is derived from the collection of rents, rates, tariffs and charges. A number of factors could adversely affect the Port Commission's ability to generate Revenue and pay its operating costs through its lease, rates and tariffs structure including, but not limited to, increased capital improvement needs and the costs thereof, increased Operation and Maintenance Expenses, competition in the real estate market and maritime industry for the property and services offered by the Port, changes in the cost and terms of debt financing, increased federal, state and city/county restrictions or requirements, and general economic conditions. These factors are not within the Port's control, to a large degree. The ability of the Port to generate or maintain Revenue through its real estate development activities is affected by the same factors. Any adverse change in any of the foregoing factors could

make the ongoing development of the Port's properties more difficult or impossible, even if only for a period of time.

The Port competes directly with certain other port facilities in the immediate area and the region and is subject to competitive factors and market conditions in a number of sectors. See "Certain Economic and Other Constraints on Port Revenue" above.

Risk of Earthquake

The City is located in a seismically active region of California, which has experienced numerous earthquakes with a magnitude of at least 6.0 and with epicenters within or near the San Francisco Bay Area. The San Andreas Fault lies 7.5 miles west of the City, and the Hayward fault is approximately 11.5 miles to the east of the City. The largest earthquake was the 1906 San Francisco earthquake along the San Andreas Fault with an estimated magnitude of 8.2 on the Richter scale. The most recent significant earthquake was the October 1989 Loma Prieta earthquake with a magnitude of 7.1 on the Richter scale and with an epicenter near Santa Cruz, approximately 55 miles south of San Francisco.

According to the U.S. Geological Survey, Open-File Report 03-214, "[o]n the basis of research conducted since the 1989 Loma Prieta earthquake, [USGS] and other scientists conclude that there is a 62% probability of at least one magnitude 6.7 or greater quake, capable of causing widespread damage, striking the San Francisco Bay region before 2032. Therefore, a significant earthquake in the City is probable during the time the Bonds will be outstanding. The effects of strong ground shaking, liquefaction, landslides, or other ground failure account for approximately 95 percent of economic losses caused by an earthquake (Seismic Hazards Mapping Act of 1990).

The Seismic Hazards Mapping Act of 1990 requires sellers and agents of real property located within a Seismic Hazard Zone to disclose the zone designation to buyers at the time of sale. The Port Area is located within a liquefaction zone according to a report prepared by the California Geologic Survey. Liquefaction is a significant loss of soil strength resulting from increased pore water pressure during earthquakes. Loss of soil strength can cause damage to buildings due to ground settlement or lateral spreading. The Seismic Hazards Mapping Act also requires cities or counties to regulate certain development projects within the zones by withholding approval until the soil conditions of the project sites are investigated and appropriate mitigation measures are incorporated into the development plans. As a part of the building permit review for development projects, the Port requires geotechnical investigations be conducted that profile the soils, determine the potential for liquefaction, and identify measures to mitigate.

The Port does not carry earthquake insurance, except for marine terminal container cranes, and the Port does not anticipate obtaining earthquake insurance for the Port Area. In addition, in the event facilities located within the Port Area were damaged or destroyed in an earthquake, the business operations and finances of the Port could be materially adversely affected.

Acts of Terrorism and Force Majeure Events

The federal Department of Homeland Security has identified the major ports on the California coast, including the Port, and other ports in the United States, as facilities subject to a high level of risk of terrorist attacks. In addition, certain facilities on the Port are subject to regulation under the Maritime Transportation Security Act of 2002 ("MTSA") and regulations adopted thereunder, which require the Port to implement security measures designed to protect the ports and waterways of the U.S. from a terrorist attack. Regulated facilities at the Port of San Francisco include cargo, cruise and ferry facilities. In response to such concerns and in compliance with MTSA and other applicable regulations, the Port has undertaken additional security measures – both at facilities regulated under MTSA, and to protect Port facilities and public access areas not regulated under MTSA. However, the Port Commission cannot predict the likelihood of a terrorist attack on any of its facilities or the extent of damage or disruption that might result or the degree to which such compliance measures will be successful in preventing an attack. In addition, the Port Commission is not able to assess the ultimate cost of the security measures which are currently required by the MTSA and applicable regulations or which may be required in the future. Required security measures are reevaluated and modified frequently by the federal Department of Homeland. Such measures,

and the cost of their implementation, could increase in the future. The Port's facilities are not insured by the Port Commission against terrorist attack. See "- No Insurance For Certain Losses" below.

The Port's facilities and its ability to generate Revenue from its properties are also at risk from other events of force majeure, such as extreme weather events and other natural occurrences, fires and explosions, spills of hazardous substances, strikes and lockouts, sabotage, wars, blockades and riots. While the Port Commission has attempted to address the risk of a loss from many of these sorts of occurrences through the purchase of commercial property and casualty insurance, certain of these events may not be covered by standard property and casualty insurance coverages. Notwithstanding that the Port Commission may seek recovery under its insurance policies in the event of the occurrence of an insured loss, there exists the possibility that an insurer may deny coverage and refuse to pay a claim and there is an attendant risk of litigation and delay in receipt of any loss claim payment. In the event of damage to the Port's facilities, the collection of lease rentals or other tariffs, fees and charges for the use of Port properties and other amounts comprising the Revenue could be impaired for an undetermined period.

No Insurance For Certain Losses

The Port Commission does not currently maintain insurance insuring against loss resulting from earthquake, flood, terrorist activity and certain other types of loss. The Port Commission would be required to pay for the costs resulting from any catastrophic loss from its budgetary reserves. It is expected that grant moneys from the Federal Emergency Management Agency ("FEMA") would be available to the Port Commission to pay a portion of such costs. However, such FEMA grant funds, if available at all, might not be available in amounts sufficient to pay a significant portion of such costs, and there can be no assurance that the Port Commission's budgetary reserves will be adequate to address any casualty or loss which its facilities might experience.

Operation and Maintenance Expenses

The payment of principal of and interest on the Bonds will be made from the Net Revenue of the Port, which is comprised of the Revenue of the Port available after payment of the Operation and Maintenance Expenses of the Port. There can be no assurance that the Operation and Maintenance Expenses of the Port will continue at the levels that currently prevail. Such expenses could increase substantially and could cause the Port Commission to be unable to meet the debt service coverage requirement of the Indenture. The Port Commission has a limited ability to increase its rates, tariffs and charges and in all cases, such increases are subject to prevailing market conditions, which could cause such increases to raise the number of defaults under the Port's agreements with its tenants or to reduce the market demand for the Port's properties. See "PORT FINANCIAL OPERATIONS—Operation and Maintenance Expenses" herein.

Risks Related to Environmental Liability; Hazardous Substances and Increased Environmental Regulation

The Port is subject to a wide variety of local, State, and federal transportation and environmental laws. Among the types of regulatory requirements faced by such facilities are air and water quality control requirements. The Port is currently subject to environmental compliance orders and mandates with respect to several of its properties. It is likely that other Port properties and activities will become the subject of other compliance orders and mandates. The costs to the Port to implement the compliance measures required by such orders and mandates are included as Operation and Maintenance Expenses of the Port, and are substantial. Such regulations are subject to amendment from time to time, and any such amendments could require the Port to undertake additional, costly compliance measures. The costs of such compliance measures and amendments could materially increase the Port's operating costs and thereby adversely affect Net Revenue.

The Port Area includes properties on which hazardous substances have been located. It is likely, due to the nature of past operations on Port properties, that additional Port properties will be found to have hazardous substances located on them. See "THE PORT OF SAN FRANCISCO—Environmental Compliance" herein. The Port as the owner of contaminated property may be liable in the event of a determination of the presence or discharge of hazardous substances on its property, irrespective of its knowledge of the presence or discharge of such substances, or its lack of responsibility for the existence of such substances on its property. Costs of remediation of these substances, if required, could be extremely high and could exceed the value or revenue-generation potential of such properties. The costs of remediation could materially increase the Port's operation and maintenance costs and

could thereby adversely affect the Net Revenue available to pay the Bonds. Insurance coverage for the costs of environmental liability of the Port may be limited and many such costs are not covered by commercial insurance policies.

Construction risk

Construction on Port property involves difficulties peculiar to construction over water and on landfill such as tide-limited work hours and unanticipated soil conditions or buried objects. Construction of Port facilities is also subject to ordinary construction risks and delays applicable to projects of their kind, such as (i) inclement weather affecting contractor performance and timeliness of completion, which could affect the costs and availability of, or delivery schedule for, equipment, components, materials, labor or subcontractors; (ii) contractor claims or nonperformance; (iii) failure of contractors to execute within contract price; (iv) work stoppages or slowdowns; (v) failure of contractors to meet schedule terms; or (vi) the discovery of hazardous materials on the site or other issues regarding compliance with applicable environmental standards.

Constitutional and Statutory Restrictions on Fees and Charges; Change in Law

The Port is subject to State, federal and City laws that restrict its operations. Such laws may be amended at any time. Several constitutional and statutory limitations on taxes, revenues and expenditures exist under State law that could limit the ability of the Port to impose and increase revenue sources and to spend such revenues, and that, under certain circumstances, could permit existing revenue sources of the Port to be reduced by vote of the City electorate. These constitutional and statutory limitations, and future limitations, if enacted, could potentially have an adverse impact on the Port's general finances and its ability to raise revenue, or maintain existing revenue sources, in the future. A summary of the currently effective limitations is set forth below.

Articles XIII C and XIII D of the California Constitution. Proposition 218, approved by the voters of the State in 1996, added Articles XIII C and XIII D to the State Constitution, which affect the ability of local governments, including charter cities such as the City, to levy and collect both existing and future taxes, assessments, fees and charges. The applicability of Proposition 218 to enterprise departments of cities, such as the Port, is unclear, but the Port believes that Propostion 218 is inapplicable to the fees and charges imposed by it. The voter approval requirements of Article XIII C reduce the flexibility of local governments to deal with fiscal problems by raising revenue through new, extended or increased assessments, fees and charges. No assurance can be given that the Port will be able to raise assessments, fees and charges in the future to meet increased expenditure requirements, if it is later determined that the Port's fees and charges are subject to Proposition 218.

In addition, Article XIII C addresses the initiative power in matters of local taxes, assessments, fees and charges. Pursuant to Article XIII C, the voters of the City could, by initiative, repeal, reduce or limit any existing or future local tax, assessment, fee or charge, subject to certain limitations imposed by the courts and additional limitations with respect to the collection of revenues to repay bonds. No assurance can be given that the voters of the City will not approve initiatives that repeal, reduce or prohibit the imposition or increase of local taxes, assessments, fees or charges by the Port.

Article XIII D contains several provisions intended to restrict the ability of local agencies to levy and maintain "assessments" and "fees" (as defined in Article XIII D) for "property-related services." Article XIII D defines the terms "fee" and "charge" to mean "any levy other than an *ad valorem* tax, a special tax or an assessment, imposed by an agency upon a parcel or upon a person as an incident of property ownership, including user fees or charges for a property-related service." A "property-related service" is defined as "a public service having a direct relationship to property ownership." The Port is of the opinion that charges for its services are not property-related fees or charges and therefore are not subject to the limits of Article XIII D. The Port cannot predict the future impact of Proposition 218 on the finances of the Port, and no assurance can be given that, due to subsequent interpretations of Proposition 218 by the courts, Proposition 218 will not have a material adverse impact on the Port's revenues.

Future Changes in Laws. No assurance can be given that the State electorate will not at some future time adopt initiatives or that the State Legislature will not enact legislation that will amend the laws or the Constitution of the State of California, resulting in a reduction of Net Revenue and, consequently, having an adverse effect on the security for the Bonds. No assurance can be given that the City electorate will not at some future time adopt an

initiative or Charter amendment having an impact on the Port's operations and, consequently, having an adverse effect on the security for the Bonds.

Bankruptcy or Financial Failure of Tenant

The financial failure or bankruptcy of a Port tenant could adversely affect the ability of such tenant to honor its obligation under its lease, may affect the Port Commission's ability to enforce the terms of the lease against such tenant and could allow such tenant to reject its lease. Further, the Port Commission's right to receive payment of rent accrued prior to bankruptcy may be limited to the rights of an unsecured creditor of the bankrupt entity.

Two Port tenants with leases at Pier 38 are currently in bankruptcy and are not paying rent under their leases, and the Port Commission is in ongoing litigation with both tenants. See "LITIGATION" herein. The Port Commission is not aware of the existing or impending financial failure or bankruptcy of any other Port tenant, but there can be no assurance that a financial failure or bankruptcy of another tenant will not occur.

Uncertainties of Projections, Forecasts and Assumptions

Compliance with certain of the covenants contained in the Indenture is based upon assumptions and projections including, but not limited to, those described under "PORT FINANCIAL OPERATIONS – Projected Operating Results." Projections and assumptions are inherently subject to significant uncertainties. Inevitably, some assumptions will not be realized and unanticipated events and circumstances may occur and actual results are likely to differ, perhaps materially, from those projected. Accordingly, such projections are not necessarily indicative of future performance, and the Port Commission assumes no responsibility for the accuracy of such projections. See also "FORWARD-LOOKING STATEMENTS" above.

Loss of Tax Exemption/Risk of Tax Audit of Municipal Issuers

As discussed under "TAX MATTERS", interest on the Series 2009A Bonds could fail to be excluded from the gross income of the owners thereof for purposes of federal income taxation retroactive to the date of the issuance of the Series 2009A Bonds as a result of future acts or omissions of the Port Commission in violation of its covenants to comply with requirements of the Internal Revenue Code of 1986, as amended. Should such an event of taxability occur, the Series 2009A Bonds are not subject to special redemption or any increase in interest rate and will remain outstanding until maturity or until redeemed under one of the redemption provisions contained in the Indenture.

In December 1999, as a part of a larger reorganization of the Internal Revenue Service ("IRS"), the IRS commenced operation of its Tax Exempt and Government Entities Division (the "TE/GE Division"), as the successor to its Employee Plans and Exempt Organizations division. The TE/GE Division has a subdivision that is specifically devoted to tax-exempt bond compliance. Public statements by IRS officials indicate that the number of tax-exempt bond examinations is expected to increase significantly under the new TE/GE Division. There is no assurance that, if an IRS examination of the Series 2009A Bonds were undertaken, it would not adversely affect the secondary market value of the Series 2009A Bonds.

Secondary Market

There can be no guarantee that there will be a secondary market for the Bonds or, if a secondary market exists, that the Bonds can be sold for any particular price. Occasionally, because of general market conditions or because of adverse history or economic prospects connected with a particular issue, secondary marketing practices in connection with a particular issue are suspended or terminated. Additionally, prices of issues for which a market is being made will depend upon then prevailing circumstances. Such prices could be substantially different from the original purchase price.

AUDITED FINANCIAL STATEMENTS

Audited Financial Statements of the Port Commission (the "Financial Statements") for the Fiscal Years ended June 30, 2008 and 2009 are attached as Appendix A. See Appendix A — "PORT COMMISSION OF THE CITY

AND COUNTY OF SAN FRANCISCO, FINANCIAL STATEMENTS AND INDEPENDENT AUDITORS' REPORT, JUNE 30, 2009 AND 2008." Such financial statements have been audited by Macias Gini & O'Connell LLP [and Hood & Strong LLP], independent certified public accountants, respectively. The Port Commission prepares financial statements that are audited annually.

The Port has not requested nor did the Port obtain permission from Macias Gini & O'Connell LLP, its independent auditor for the Fiscal Year ended June 30, 2009, to include its report on the audited financial statements included as an Appendix to this Official Statement. Macias Gini & O'Connell LLP has not been engaged to perform and has not performed, since the date of its report included herein, any procedures on the financial statements addressed in that report. Macias Gini & O'Connell LLP also has not performed any procedures relating to this Official Statement.

CONTINUING DISCLOSURE

The Port Commission has covenanted for the benefit of the Owners of the Bonds to provide certain financial information and operating data relating to the Port Commission not later than 270 days after the end of the Port Commission's Fiscal Year (which currently ends on June 30), commencing with the report for Fiscal Year 2009-10 (the "Annual Report") and to provide notices of the occurrence of certain enumerated events, if material. The Annual Report will be filed by the Port Commission with the Municipal Securities Rulemaking Board (MSRB) through its Electronic Municipal Market Assess (EMMA) system.

The specific nature of the information to be contained in the Annual Report or the notices of material events is summarized in Appendix C — FORM OF CONTINUING DISCLOSURE CERTIFICATE." These covenants have been made in order to assist the Underwriter in complying with Securities and Exchange Commission Rule 15c2-12(b)(5). The Port Commission is not in default with respect to any previous undertaking made with regard to said Rule. The Port Commission has never failed to comply in all material respects with any previous undertakings with regard to the Rule to provide annual financial information or notices of material events.

The Port has never failed to comply in all material respects with its prior continuing disclosure undertakings under the Rule.

TAX MATTERS

[TO COME FROM CO-BOND COUNSEL]

RATINGS

Moody's Investors Service, Inc. ("Moody's), Standard & Poor's Credit Ratings Services, a division of The McGraw-Hill Companies, Inc. ("S&P"), and Fitch Ratings ("Fitch") have assigned their municipal bond ratings of _____, _____ and _____, respectively, to the Bonds. The ratings issued reflect only the views of such rating agencies and are not a recommendation to buy, sell or hold the Bonds. Any explanation of the significance of these ratings should be obtained from the respective rating agencies. There is no assurance that such ratings will be retained for any given period or that the same will not be revised downward or withdrawn entirely by such rating agencies if, in the respective judgment of such rating agencies, circumstances so warrant. Any such downward revision or withdrawal of any rating obtained may have an adverse effect on the marketability or the market price of the Bonds.

UNDERWRITING

The Bonds are being purchased by Jefferies & Company, Inc. (the "Underwriter"). The Underwriter has agreed to purchase the Bonds at a purchase price of $_____ (comprised of the principal amount of the Bonds, plus a net reoffering premium on the Bonds of $_____, less an underwriters' discount in the amount of $_____.

The purchase contract pursuant to which the Bonds are being sold provides that the Underwriter will purchase all of the Bonds if any Bonds are purchased, and the obligation to make such purchase is subject to certain terms and

conditions set forth in such purchase contract, the approval of certain legal matters by counsel and certain other conditions. The Underwriter may offer and sell the Bonds to certain dealers and others at a price lower than the offering prices stated on the inside cover page hereof. The offering prices may be changed from time to time by the Underwriter.

LITIGATION

There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, regulatory agency, public board or body, pending or, to the best knowledge of the Port Commission, threatened against the Port Commission affecting the existence of the Port Commission or the titles of its officers to their respective offices or seeking to restrain or to enjoin the sale or delivery of the Bonds, the application of the proceeds thereof in accordance with the Indenture, or in any way contesting or affecting the validity or enforceability of the Bonds, the Indenture or any action of the Port Commission contemplated by any of said documents, or in any way contesting the completeness or accuracy of this Official Statement or any amendment or supplement thereto, or contesting the powers of the Port Commission with respect to the Bonds or any action of the Port Commission contemplated by any of said documents, nor to the knowledge of the Port Commission, is there any basis therefor.

There are a number of litigation matters pending against the Port Commission for incidents at the Port, involving claims and suits which arise out of the ordinary course of business and operations of the Port. In the opinion of the Port General Counsel, an adverse judgment on any of these pending matters, either individually or in the aggregate will not have a material adverse effect on the Net Revenue or on the financial condition of the Port. Most of such claims involve claims relating to personal injury and property damage and most such claims are covered by a comprehensive insurance program maintained by the Port Commission. See "PORT FINANCIAL OPERATIONS— Litigation" herein.

The Port is also involved in litigation with tenants and former tenants. There are two unrelated pending actions filed by tenants, alleging breach of leases and associated economic losses. Neither tenant has produced credible evidence to support their claimed damages. In one action, the tenant alleges wrongful partial eviction and significant economic losses, but has failed to produce evidence to support such losses. This action is subject to possible further discovery, and the Port's insurer has acknowledged partial insurance coverage (for the eviction claim only), subject to a reservation of rights.

The Port Commission is also a named party in various other environmental and regulatory matters that are presently in the course of regulatory investigation and compliance review. Certain of such matters are discussed herein under the caption "THE PORT OF SAN FRANCISCO—Environmental Compliance."

CERTAIN LEGAL MATTERS

The validity of the Bonds and certain other legal matters are subject to the approving opinions of Hawkins Delafield & Wood LLP, San Francisco, California, and Lofton & Jennings, San Francisco, California, Co-Bond Counsel. Complete copies of the proposed forms of Co-Bond Counsel opinions are contained in APPENDIX E hereto, and will be made available to the Underwriter of the Bonds at the time of the original delivery of the Bonds. None of Co-Bond Counsel, Disclosure Counsel or Underwriter's Counsel undertakes any responsibility for the accuracy, completeness or fairness of this Official Statement. Certain legal matters will be passed upon for the Port Commission by the City Attorney and by Orrick, Herrington & Sutcliffe LLP, Disclosure Counsel. Certain legal matters will be passed upon for the Underwriter by Chapman and Cutler, LLP, San Francisco, California.

Orrick, Herrington & Sutcliffe LLP has served as disclosure counsel to the Port Commission and in such capacity has advised the Port Commission with respect to applicable securities laws and participated with responsible Port Commission officials and staff in conferences and meetings where information contained in this Official Statement was reviewed for accuracy and completeness. Disclosure Counsel is not responsible for the accuracy or completeness of the statements or information presented in this Official Statement and has not undertaken to independently verify any of such statements or information. Rather, the Port Commission is solely responsible for the accuracy and completeness of the statements and information contained in this Official Statement. Upon the issuance of the Bonds, Disclosure Counsel will deliver a letter to the Port Commission which advises the Port Commission, subject to the assumptions, exclusions, qualifications and limitations set forth therein,

that no facts came to attention of the attorneys at such firm rendering legal services in connection with such firm's role as disclosure counsel which caused them to believe that this Official Statement as of its date and as of the date of issuance of the Bonds contained or contains any untrue statement of a material fact or omitted or omits to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. No purchaser or holder of the Bonds, or other person or party other than the Port Commission, will be entitled to or may rely on such letter or Orrick, Herrington & Sutcliffe LLP's having acted in the role of disclosure counsel to the Port Commission.

ROLE OF THE FINANCIAL ADVISORS

Public Financial Management, Inc., San Francisco, California, and Backstrom McCarley Berry & Co., LLC, San Francisco, California are acting as Financial Advisors to the Port Commission with respect to the Bonds. The Financial Advisors have assisted the Port Commission in the preparation of this Official Statement and in other matters relating to the planning, structuring, execution and delivery of the Bonds. The Financial Advisors have not independently verified any of the data contained herein or conducted a detailed investigation of the affairs of the Port Commission to determine the accuracy or completeness of this Official Statement. Because of its limited participation, the Financial Advisors assume no responsibility for the accuracy or completeness of any of the information contained herein. The Financial Advisors will not purchase or make a market in any of the Bonds.

Compensation to be received by the Financial Advisors from the Port Commission for services provided in connection with the planning, structuring, execution and delivery of the Bonds is not contingent upon the sale and delivery of the Bonds.

MISCELLANEOUS

References made herein to certain documents and reports are brief summaries thereof that do not purport to be complete or definitive, and reference is made to such documents and reports for full and complete statements of the contents thereof.

The appendices to this Official Statement are integral parts of this Official Statement. Investors must read the entire Official Statement, including the appendices, to obtain information essential to making an informed investment decision.

Any statements in this Official Statement involving matters of opinion, whether or not expressly so stated, are intended as such and not as representations of fact. This Official Statement is not to be construed as a contract or agreement between the Port Commission and the purchasers or owners of any of the Bonds. The preparation and distribution of this Official Statement has been authorized by the Port Commission. For copies, written request may be made to the Manager of Communications, Port of San Francisco, Pier 1, The Embarcadero, San Francisco, CA 94111.

APPROVAL AND EXECUTION

The execution and delivery of this Official Statement has been authorized by the Port Commission.

PORT COMMISSION OF THE
CITY AND COUNTY OF SAN FRANCISCO

By: _____
Executive Director

APPENDIX A

PORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO, FINANCIAL STATEMENTS AND INDEPENDENT AUDITORS' REPORT, JUNE 30, 2008 AND 2009

APPENDIX B

SUMMARY OF THE LEGAL DOCUMENTS

[To come from Co-Bond Counsel]

APPENDIX C

FORM OF CONTINUING DISCLOSURE CERTIFICATE

This Continuing Disclosure Certificate (the "Disclosure Certificate") is executed and delivered by the Port Commission of the City and County of San Francisco (the "Port Commission") in connection with the issuance of $_____ aggregate principal amount of Port Commission of the City and County of San Francisco Revenue Bonds, Series 2009A and Series 2009B (collectively, the "Bonds"). The Bonds are being issued pursuant to an Indenture of Trust, dated as of [November 1, 2009], between the Port Commission and _____, as trustee (the "Trustee"), as amended and supplemented by a First Supplement to Indenture of Trust, dated as of [November 1, 2009], between the Port Commission and the Trustee (collectively, the "Indenture").

The Port Commission covenants and agrees as follows:

Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the Port Commission for the benefit of the Holders and Beneficial Owners of the Bonds and in order to assist the Participating Underwriters in complying with Securities and Exchange Commission (the "S.E.C.") Rule 15c2-12(b)(5).

Definitions. In addition to the definitions set forth in the Indenture, which apply to any capitalized term used in this Disclosure Certificate unless otherwise defined in this Section 2, the following capitalized terms shall have the following meanings:

"Annual Report" shall mean any Annual Report provided by the Port Commission pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

"Beneficial Owner" shall mean any person which: (a) has or shares the power, directly or indirectly, to make investment decisions concerning ownership of any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries) including, but not limited to, the power to vote or consent with respect to any Bonds or to dispose of ownership of any Bonds; or (b) is treated as the owner of any Bonds for federal income tax purposes.

"Dissemination Agent" shall mean the Port Commission, acting in its capacity as Dissemination Agent under this Disclosure Certificate, or any successor Dissemination Agent designated in writing by the Port Commission and which has filed with the Port Commission a written acceptance of such designation.

"Holder" shall mean either the registered owners of the Bonds, or, if the Bonds are registered in the name of The Depository Trust Company or another recognized depository, any applicable participant in such depository system.

"Listed Events" shall mean any of the events listed in Section 5(a) of this Disclosure Certificate.

"MSRB" shall mean the Municipal Securities Rulemaking Board or any other entity designated or authorized by the Securities and Exchange Commission to receive continuing disclosure filings pursuant to the Rule. Until otherwise designated by the MSRB or the Securities and Exchange Commission, filings with the MSRB are to be made through the Electronic Municipal Market Access (EMMA) website of the MSRB currently located at *http://emma.msrb.org*.

"Official Statement" shall mean the final Official Statement, dated _____, 2009, prepared in connection with the sale and offering of the Bonds.

"Participating Underwriter" shall mean any of the original underwriters or purchasers of the Bonds required to comply with the Rule in connection with offering of the Bonds.

"Rule" shall mean Rule 15c2-12(b)(5) adopted by the S.E.C. under the Securities Exchange Act of 1934, as the same may be amended from time to time.

Provision of Annual Reports.

1. The Port Commission shall, or shall cause the Dissemination Agent to, not later than 9 months after the end of the Port Commission's Fiscal Year (which currently ends June 30), commencing March 31, 2011, with the report for the 2009-10 Fiscal Year, provide to the MSRB an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Certificate. If the Dissemination Agent is not the Port Commission, the Port Commission shall provide the Annual Report to the Dissemination Agent not later than 15 days prior to said date. The Annual Report must be submitted in electronic format and accompanied by such identifying information as is prescribed by the MSRB, and may cross-reference other information as provided in Section 4 of this Disclosure Certificate; *provided*, that if the audited financial statements of the Port Commission are not available by the date required above for the filing of the Annual Report, the Port Commission shall submit unaudited financial statements and submit the audited financial statements as soon as they are available. If the Port Commission's Fiscal Year changes, it shall give notice of such change in the same manner as for a Listed Event under Section 5(c).

2. If the Port Commission is unable to provide to the MSRB an Annual Report by the date required in subsection (a), the Port Commission shall send a notice to the MSRB in substantially the form attached as Exhibit A.

3. The Dissemination Agent shall (if the Dissemination Agent is other than the Port Commission), file a report with the Port Commission certifying the date that the Annual Report was provided to the MSRB pursuant to this Disclosure Certificate.

Content of Annual Reports. Port Commission's Annual Report shall contain or incorporate by reference the following information:

4. Audited Financial Statements of the municipal water supply, storage and distribution system of the Port Commission for the prior Fiscal Year, prepared in accordance with generally accepted accounting principles applicable to the Port Commission from time to time. If the Port Commission's audited financial statements are not available by the date the Annual Report is required to be filed, the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the final Official Statements, and the audited financial statements shall be filed in the same manner as the Annual Report when they become available;

5. Updated information in the table captioned "MAJOR PORT OPERATING REVENUES";

6. Updated information in the table "PORT OF SAN FRANCISCO, REAL ESTATE LEASES, REMAINING LEASE TERMS";

7. Updated information in the table captioned "TOP 10 TENANTS FISCAL YEAR ENDING JUNE 30, 2009";

8. Updated information in the table captioned "PORT OF SAN FRANCISCO, HISTORICAL RESULTS OF OPERATIONS FOR FISCAL YEAR ENDED JUNE 30";

9. Updated information in the table captioned "PORT OF SAN FRANCISCO, HISTORICAL OPERATION & MAINTENANCE EXPENSES FOR FISCAL YEAR ENDING JUNE 30"; and

10. Updated information in the table captioned "PORT OF SAN FRANCISCO HISTORICAL, DEBT SERVICE COVERAGE, FOR FISCAL YEARS ENDED JUNE 30".

Any or all of the items listed above may be set forth in a document or set of documents, or may be included by specific reference to other documents, including official statements of debt issues of the Port Commission or related public entities, which are available to the public on the MSRB website. If the document included by reference is a final official statement, it must be available from the MSRB. The Port Commission shall clearly identify each such other document so included by reference.

Reporting of Significant Events.

11. To the extent applicable and pursuant to the provisions of this Section 5, the Port Commission shall give, or cause to be given, notice of the occurrence of any of the following events with respect to the Bonds, if material:

1.Principal and interest payment delinquencies.

2.Non-payment related defaults.

3.Modifications to rights of Holders.

4.Optional, contingent or unscheduled bond calls.

5.Defeasances.

6.Rating changes.

7.Adverse tax opinions or events affecting the tax-exempt status of the Bonds.

8.Unscheduled draws on debt service reserves reflecting financial difficulties.

9.Unscheduled draws on credit enhancements reflecting financial difficulties.

10.Substitution of credit or liquidity providers or their failure to perform.

11.Release, substitution or sale of property securing repayment of the Bonds.

12. Whenever the Port Commission obtains knowledge of the occurrence of a Listed Event, the Port Commission shall as soon as possible determine if such event would be material under applicable federal securities laws.

13. If the Port Commission determines that knowledge of the occurrence of a Listed Event would be material under applicable federal securities laws, the Port Commission shall promptly file a notice of such occurrence with the MSRB in electronic format, accompanied by such identifying information as is prescribed by the MSRB. Notwithstanding the foregoing, notice of a Listed Event described in Section 5(a)(4) need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to Holders and Beneficial Owners of affected Bonds pursuant to the Indenture.

Termination of Reporting Obligation. The Port Commission's obligations under this Disclosure Certificate shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds. If such termination occurs prior to the final maturity of the Bonds, the Port Commission shall give notice of such termination in the same manner as for a Listed Event under Section 5(c).

Dissemination Agent. The Port Commission may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate.

Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the Port Commission may amend or waive this Disclosure Certificate or any provision of this Disclosure Certificate, provided that the following conditions are satisfied:

14. If the amendment or waiver relates to the provisions of Sections 3(a), 3(b), 4 or 5(a), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of an obligated person with respect to the Bonds or the type of business conducted;

15. The undertaking, as amended or taking into account such waiver, would, in the opinion of the City Attorney or nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

16. The amendment or waiver either (i) is approved by the owners of a majority in aggregate principal amount the Bonds or (ii) does not, in the opinion of the City Attorney or nationally recognized bond counsel, materially impair the interests of the Holders.

In the event of any amendment or waiver of a provision of this Disclosure Certificate, the Port Commission shall describe such amendment in the next Annual Report, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the Port Commission. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements: (i) notice of such change shall be given in the same manner as for a Listed Event under Section 5; and (ii) the Annual Report for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the Port Commission from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the Port Commission chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Certificate, the Port Commission shall have no obligation under this Disclosure Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

Default. In the event of a failure of the Port Commission to comply with any provision of this Disclosure Certificate, any Participating Underwriter, Holder or Beneficial Owner of the Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court

order, to cause the Port Commission to comply with its obligations under this Disclosure Certificate; provided that any such action may be instituted only in a federal or state court located in the City and County of San Francisco, State of California. Failure by the Port Commission to comply with any provision of this Disclosure Certificate shall not be deemed an Event of Default under the Indenture and the sole remedy under this Disclosure Certificate in the event of any failure of the Port Commission to comply with this Disclosure Certificate shall be an action to compel performance.

SECTION 11. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the Port Commission, the Dissemination Agent, the Participating Underwriters and Holders and Beneficial Owners from time to time of the Bonds, and shall create no rights in any other person or entity.

Date:_____, 2009.

PORT COMMISSION OF THE CITY AND COUNTY
OF SAN FRANCISCO

By_____
Executive Director

Approved as to Form:

DENNIS J. HERRERA
CITY ATTORNEY

By: _____
Deputy City Attorney

CONTINUING DISCLOSURE CERTIFICATE EXHIBIT A

FORM OF NOTICE TO THE
MUNICIPAL SECURITIES RULEMAKING BOARD
OF FAILURE TO FILE ANNUAL REPORT

Name of Issuer: PORT COMMISSION OF THE
CITY AND COUNTY OF SAN FRANCISCO

Name of Issue: PORT COMMISSION OF THE
CITY AND COUNTY OF SAN FRANCISCO
REVENUE BONDS, SERIES 2009A AND SERIES 2009B

Date of Issuance: _____, 2009

NOTICE IS HEREBY GIVEN that the Port Commission has not provided an Annual Report with respect to the above-named Bonds as required by Section 3 of the Continuing Disclosure Certificate of the Port Commission of the City and County of San Francisco, dated the Date of Issuance. The Port Commission anticipates that the Annual Report will be filed by _____.

Dated:_____

PORT COMMISSION OF THE CITY AND COUNTY
OF SAN FRANCISCO

By:_____[to be signed only if filed]_____
Title _____

APPENDIX D

DTC AND THE BOOK-ENTRY ONLY SYSTEM

The following description of The Depository Trust Company ("DTC"), the procedures and record keeping with respect to beneficial ownership interests in the Bonds, payment of principal, interest and other payments on the Bonds to DTC Participants or Beneficial Owners, confirmation and transfer of beneficial ownership interest in the Bonds and other related transactions by and between DTC, the DTC Participants and the Beneficial Owners is based solely on information provided by DTC. Accordingly, no representations can be made concerning these matters and neither the DTC Participants nor the Beneficial Owners should rely on the foregoing information with respect to such matters, but should instead confirm the same with DTC or the DTC Participants, as the case may be. Neither the Port Commission nor the Trustee take any responsibility for the information contained in this Appendix.

No assurances can be given that DTC, DTC Participants or Indirect Participants will distribute to the Beneficial Owners (a) payments of interest, principal or premium, if any, with respect to the Bonds, (b) certificates representing ownership interest in or other confirmation or ownership interest in the Bonds, or (c) redemption or other notices sent to DTC or Cede & Co., its nominee, as the registered owner of the Bonds, or that they will so do on a timely basis, or that DTC, DTC Participants or DTC Indirect Participants will act in the manner described in this Appendix. The current Rules applicable to DTC are on file with the Securities and Exchange Commission and the current Procedures of DTC to be followed in dealing with DTC Participants are on file with DTC.

The Depository Trust Company ("DTC"), New York, NY, will act as securities depository for the securities (the "Securities"). The Securities will be issued as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Security certificate will be issued for the Securities, in the aggregate principal amount of such issue, and will be deposited with DTC.

DTC, the world's largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). DTC has Standard & Poor's highest rating: AAA. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com and www.dtc.org.

Purchases of Securities under the DTC system must be made by or through Direct Participants, which will receive a credit for the Securities on DTC's records. The ownership interest of each actual purchaser of each Security ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Securities are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates

representing their ownership interests in Securities, except in the event that use of the book-entry system for the Securities is discontinued.

To facilitate subsequent transfers, all Securities deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Securities with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Securities; DTC's records reflect only the identity of the Direct Participants to whose accounts such Securities are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Redemption notices shall be sent to DTC. If less than all of the Securities within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Securities unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to Issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts Securities are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Redemption proceeds, distributions, and dividend payments on the Securities will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from Issuer or Agent, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, Agent, or Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of Issuer or Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as depository with respect to the Securities at any time by giving reasonable notice to Issuer or Agent. Under such circumstances, in the event that a successor depository is not obtained, Security certificates are required to be printed and delivered.

Issuer may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Security certificates will be printed and delivered to DTC.

Discontinuance of DTC Services. In the event that (a) DTC determines not to continue to act as securities depository for the Bonds, or (b) the Port Commission determines that DTC will no longer so act and delivers a written certificate to that effect, then the Port Commission will discontinue the Book-Entry Only System with DTC for the Bonds. If the Port Commission determines to replace DTC with another qualified securities depository, the Port Commission will prepare or direct the preparation of a new single separate, fully registered Bond for each maturity of the Bonds registered in the name of such successor or substitute securities depository as are not inconsistent with the terms of the indenture or fiscal agent agreement executed in connection with the Bonds. If the Port Commission fails to identify another qualified securities depository to replace the incumbent securities depository for the Bonds, then the Bonds will no longer be restricted to being registered in the Bond registration books in the name of the incumbent securities depository or its nominee, but will be registered in whatever name or names the incumbent securities depository or its nominee transferring or exchanging the Bonds designates.

If the Book-Entry Only System is discontinued, the following provisions would also apply: (i) the Bonds will be made available in physical form, (ii) principal of, and redemption premiums, if any, on, the Bonds will be payable upon surrender thereof at the office of the paying agent, (iii) interest on the Bonds will be payable by check mailed by first-class mail or, upon the written request of any Owner of $1,000,000 or more in aggregate principal amount of Bonds received by the paying agent on or prior to the close of business on the last day of the month immediately preceding the interest payment date, by wire transfer in immediately available funds to an account with a financial institution within the continental United States of America designated by such Owner, and (iv) the Bonds will be transferable and exchangeable as provided in the Indenture.

APPENDIX E

PROPOSED FORM OF LEGAL OPINION OF CO-BOND COUNSEL

[TO BE PROVIDED BY CO-BOND COUNSEL]

APPENDIX F

SUMMARY OF THE BURTON ACT, TRANSFER AGREEMENT AND RELATED STATE REGULATION

This Appendix contains summaries of certain provisions of 1968 Statutes of California, Chapter 1333, as amended (the "Burton Act"), and of the Agreement Relating to Transfer of the Port of San Francisco from the State of California to the City and County of San Francisco (the "Transfer Agreement"). In addition, summaries are included of certain provisions of State legislation affecting the use and development of Port property at Piers 30-32, Mission Bay and Western Pacific. These summaries are not intended to be a full statement of the contents of the documents summarized, and reference is made to the complete documents for the full terms of each. Capitalized terms used herein which are not otherwise defined herein shall have the meanings ascribed thereto in the documents. Copies of the Burton Act and the Transfer Agreement may be obtained from the Port Commission; copies of State legislation are available through the California State Legislature's web site.

THE BURTON ACT

The Burton Act authorizes the transfer in trust to the City and County of San Francisco (the "City") the interest of the State of California (the "State") in and to, and the control and management of, the Harbor of San Francisco.

The Burton Act specifies the terms and conditions of transfer of all of the right, title and interest held by the State in the real property of the Port of San Francisco, together with all improvements, rights, privileges, easements and appurtenances connected therewith or in anywise appertaining thereto, and any and all personal property of every kind and description owned or controlled by the State and used in connection with the operation and maintenance of San Francisco Harbor and including any deposits of funds held by or for the San Francisco Port Authority; excepting and reserving unto the State all subsurface mineral deposits, including oil and gas deposits, together with the right of ingress and egress on the properties conveyed to the City for exploration, drilling and extraction of such mineral, oil and gas deposits.

The City, through a Harbor Commission of the City, shall have complete authority, except as otherwise agreed to as a condition of the transfer and as provided in the Burton Act, to use, conduct, operate, maintain, manage, regulate, improve and control the harbor of San Francisco and to do all things it deems necessary in connection with the use, conduct, operation, management, maintenance, regulation, improvement and control of said harbor which are not prohibited by the laws of the State or the Charter of the City and which are in conformance with the terms of the Burton Act, including, without limiting the generality of the foregoing, the following:

1 The improvement and conduct of the harbor and the construction, reconstruction, repair and operation of all works, buildings, facilities, utilities, structures and appliances, incidental, necessary or convenient for the promotion and accommodation of commerce and navigation;

2 The use for all commerce and industrial purposes and the construction, reconstruction, repair, maintenance of commercial and industrial buildings, plants and facilities;

3 The establishment, improvement and conduct of railroad facilities, which facilities shall not be subject to State Public Utilities Commission regulation, and aviation facilities and all works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and conduct of air commerce and navigation and railroad transportation;

4 The construction, reconstruction, repair, maintenance and operation of public buildings, parks, playgrounds, public educational and recreational facilities and all works, buildings, facilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of any such uses;

5 The preservation or restoration of marine resources consistent with the primary mission of the San Francisco Harbor;

6 The grant of franchises for limited periods not exceeding 66 years for wharves and other public uses and purposes and the lease of said lands, facilities, or any part thereof for limited periods not exceeding 66 years, and the collection and retention of rents and other revenue from such leases, franchises, permits, licenses, and privileges shall be for purposes consistent with the trusts upon which the lands are held by the State and with the requirements of commerce and navigation, or if the Harbor Commission of the City determines that any portion of the transferred lands is not required for the foregoing uses, such lease or leases, franchises, permits, licenses, and privileges, may be for the purposes of such development and use as the commission finds to be in the public interest, with moneys derived therefrom to be used by the commission in the furtherance of commerce and navigation. The moneys derived from such lease or leases, franchises, permits, licenses, and privileges shall be used solely for the furtherance of the purposes specified by the Burton Act.

The City shall establish a separate harbor trust fund or funds upon the transfer in such manner as may be prescribed by the State Department of Finance; the City shall deposit in the fund or funds all moneys received directly from or indirectly attributable to facilities on the transferred lands in the harbor. An annual statement of financial condition and operations, to conform with such requirements as the State Department of Finance may prescribe, shall be submitted to the State Department of Finance each year by the City on or before September 30th of each year for the preceding Fiscal Year.

Notwithstanding any other provision of law to the contrary, the City, either acting alone or jointly with another local or State agency, may use revenues accruing from or out of the use of the transferred lands for any or all of the following purposes, provided the same comply with the terms of the trust which are matters of Statewide as distinguished from local or purely private interest and benefit:

1 The construction, reconstruction, improvement, repair, operation, maintenance, promotion, and protection of works, lands, waterways, and facilities necessary for the development of such transferred lands for highest and best use in the public interest, including commerce, navigation, fisheries, marinas, small boat harbors, marine stadiums, maritime museums, marine parks, beaches, and such streets, roadways, bridges, bridge approaches, earthfills, bulkheads, piers, supporting structures, buildings, recreational facilities, landscaping, and parking lots situated upon such transferred lands, or adjacent thereto and reasonably necessary to provide access to, or development of, such transferred lands;

2 The promotion, by advertising and such other means as may be reasonable and appropriate, of maximum public use of such transferred lands or to encourage private investment in development of such transferred lands for the highest and best use in the public interest;

3 Any other uses or purposes of State, as distinguished from purely local or private, interest and benefit, which are in fulfillment of those trust uses and purposes described in the Burton Act;

4 The acquisition of property and the rendition of services reasonably necessary to the carrying out of the foregoing uses and purposes, including the amortization or debt service of any capital improvement funding program which is consistent with the terms and conditions set forth in the Burton Act.

Revenue accruing from or out of the use of the transferred lands may be deposited in one or more reserve funds for use in accordance with the terms and conditions set forth in the Burton Act.

Upon transfer of the Port to the City, the authority, justification and control of San Francisco Port Authority over San Francisco Harbor and the facilities thereof shall be deemed transferred to the City and the port authority shall cease to function and be dissolved. The City shall thereupon assume control and jurisdiction over the San Francisco Harbor and facilities and shall have complete authority to use, operate, maintain, manage, regulate, improve and control the harbor of San Francisco and to do and perform all acts as may be deemed necessary in connection with the use, operation, maintenance, management, regulation, improvement and control of said harbor as may be prescribed.

San Francisco Harbor and facilities shall be under the administration and control of the Harbor Commission of the City which shall be established in accordance with the provisions of the Charter of the City. The commission

shall consist of five members, each member serving for a term of four years. Each of said members shall be appointed by the mayor, said appointment being subject to confirmation by the Board of Supervisors of the City.

In the event that the City fails or refuses to file with the State Department of Finance any report, statement, or document required by any provision of the Burton Act within the time period specified by the Burton Act, or any extension period granted pursuant to the Burton Act, or fails or refuses to carry out the terms of the transfer by which the lands were transferred to it pursuant to the Burton Act, the State Attorney General shall, upon request of the State Department of Finance, bring such judicial proceedings for correction and enforcement as are appropriate, and shall act to protect any properties and assets situated on the transferred lands or derived therefrom. The State Department of Finance shall notify the Chief Clerk of the State Assembly and the Secretary of the State Senate within 30 days of the occurrence of such failure or refusal and of actions taken as a result thereof.

The State Department of Finance shall, from time to time, institute a formal inquiry to determine that the terms and conditions of the Burton Act, and amendments thereto, have been complied with, and that all other applicable provisions of law concerning the specific transferred lands are being complied with in good faith.

The State Legislature reserves the right to amend, modify, or revoke, in whole or in part, the transfer of lands in trust provided for in the Burton Act, provided that the State shall thereupon assume all lawful obligations related to such lands as may revert to the State by such action.

The State Attorney General, at his own instance, or upon formal request of the State Department of Finance, or by resolution of either house of the State Legislature, shall bring an action in the superior court of the City to declare that the transfer under which the City holds such transferred lands is revoked for gross and willful violation of the terms of such transfer or the provisions of the Burton Act or other legislative enactment, or to compel compliance with the terms and conditions of the transfer and any other provision of law including, but not limited to, the Burton Act.

No amendment, modification, or revocation, in whole or in part, of the transfer of lands in trust provided for in the Burton Act shall impair or affect the rights or obligations of third parties, including the holders of revenue bonds or securities issued by the Harbor Commission of San Francisco and payable out of revenue of the harbor, lessees, lenders for value, holders of contracts conferring the right to the use and occupation of, or the right to conduct operations upon or within, such lands, arising from leases, contracts, or other instruments lawfully entered into prior to the effective date of such amendment, modification, or revocation.

In the event, at the effective date of any such amendment, modification, or revocation, there are in effect any such leases, contracts, or other instruments, the State may, at its option exercised by, and evidenced by appropriate action on the part of, the State Lands Commission, succeed to the interest in any such instrument of the City; otherwise the interest of the City in any such instrument then in effect shall continue during the term or other period of time during which such instrument shall remain in effect; and provided further, that in any event all revenues bonds or securities issued by the Harbor Commission of San Francisco and payable out of revenues of the harbor shall continue to be so payable and secured in all respects as provided in the proceedings for their issuance and the revenues of the harbor shall be pledged to and applied to the payment of such revenue bonds or securities in all respects as though no such amendment, modification, or revocation had taken place.

THE TRANSFER AGREEMENT

The following summary describes certain provisions of the Transfer Agreement, dated as of January 24, 1969, between the State and the City, pursuant to which the Port was transferrred to the City by the State in accordance with the Burton Act.

Transfer of Property

REAL PROPERTY: The real property which is transferred under the Burton Act is the real property under the jurisdiction and control of the San Francisco Port Authority as of the date of transfer, subject to certain restrictions and exceptions, all as more particularly set forth in the Burton Act, and subject to a survey of such property by the City and agreement between the parties as to the description, which description is be deemed to be a part of the Transfer Agreement.

PERSONAL PROPERTY OTHER THAN FUNDS: All personal property owned or controlled by the State and used in connection with the operation and maintenance of the harbor is transferred pursuant to the terms of the Burton Act.

TRANSFER OF FUNDS: The funds transferred from the State to the City pursuant to the Burton Act consist of the following funds established by statute: San Francisco Harbor Improvement Fund; San Francisco Sea Wall Fund No. 4; San Francisco Sea Wall No. 5; Harbor Bond Sinking Fund; India Basin Sinking Fund; San Francisco Sea Wall Sinking Fund No. 2; San Francisco Sea Wall Sinking Fund No. 3; San Francisco Sea Wall Sinking Fund No. 4; and Special Deposit. Monies in the Surplus Monies Investment Fund from each of the above funds will be transferred as of the date of transfer in accordance with the provisions of the Transfer Agreement, and interest on those monies will be credited by the State in the same manner and to the same extent as it credited interest at the time of transfer to the deposits of the funds when the San Francisco Port Authority requests transfer back to the funds. The fund designated Special Deposit is a trust fund in which monies which are not property of the State are deposited prior to refund or repayment to other persons. Such fund will be taken by the City subject to repayment to the true owners. In the event the funds are not repaid and vest in the City, such funds will be credited by the City to the San Francisco Harbor Improvement Fund. Upon the transfer of these funds from the State to the City, the City will set up funds identical with the funds designated. Deposits will be made into these funds in the same manner and to the same extent as deposits were made at the time of transfer and the funds will be used for the same purposes as the funds are used by the State; however the City is not precluded from setting up additional funds when and if that becomes necessary, nor setting up additional accounts in the funds when and if such accounts become necessary. The additional funds may not, however, be set up except upon prior written notification to the State Director of Finance. In the event the State Director of Finance is of the opinion that the additional funds will affect the security of the funds now in existence or will otherwise adversely affect the interests of the Harbor, the State Director of Finance may disapprove funds which are properly and reasonably set up for the repayment of bond issues authorized pursuant to the Burton Act providing the monies available to the Harbor are sufficient to meet obligations to funds created prior in time and to meet current obligations and maintenance.

In addition to the funds enumerated above, the parties agree that any and all receivables, obligations, liquidated and unliquidated, and choses in action owing to the Authority at the time of the transfer are likewise transferred.

Limitations on Property Transferred

All the limitations, exceptions and conditions on transfer of property from the State to the City contained in the Burton Act are made a part of the Transfer Agreement. The following provisions define and interpret the provisions of the Burton Act which require such definition or interpretation.

The Burton Act excepts and reserves to the State all subsurface mineral deposits including oil and gas deposits, together with the right of ingress and egress on the properties conveyed to the City for exploration, drilling and excavation of such mineral, oil and gas deposits. Minerals covered in this reservation are deemed to include all of the minerals enumerated in California Public Resources Code Section 6407. Nothing contained in the Transfer Agreement precludes the City in its operation of the Harbor from moving or removing earth, including sand, gravel and other deposits for purposes of dredging, filling, excavating, bulkheading or any other ordinary port maintenance, construction or reconstruction without charge to the City therefor. The right of ingress and egress in the reservation will be exercised in such manner and to such extent as not to unreasonably interfere with the property for the purposes for which it has been transferred under the Burton Act.

The Burton Act reserves to the people of the State the right to hunt and fish in and over the waters of San Francisco Harbor. The right to hunt and fish is not intended to and does not limit the police powers of the City in

connection with hunting or fishing in the city limits. The right to hunt and to fish will not be exercised in such fashion as to interfere with the operation of the property for port purposes, nor will such rights be exercised in an area or in such manner as to endanger the safety of persons or property.

Conditions of Transfer

The City by the Transfer Agreement agrees to indemnify, defend and hold harmless the State with regard to all outstanding bonded indebtedness incurred for San Francisco Harbor improvements. To carry out the requirements of the Transfer Agreement the City agrees to set up certain funds. In the event that there are not sufficient funds in the San Francisco Harbor Improvement Fund set up by the City, the Board of Supervisors of the City will at the time of fixing the general tax levy and in the manner for such general tax levy provided, levy and collect annually each year until such bonds are paid or until there is a sum in the treasury of the City set apart for that purpose to meet all the sums coming due for the principal and interest on said bonds, a tax sufficient to pay the annual interest on such bonds as the same become due and also such part of the principal thereof as shall become due before the proceeds of a tax levied at the time for making the necessary general tax levy can be made available for the payment of such principal.

The City agrees to assume the obligations and duties of the Port Authority on all outstanding contracts, leases, franchises or agreements.

The City agrees to transfer to the State amounts necessary to pay the amounts due upon the bonded indebtedness prior to the time such amounts are due.

To comply with the provisions of the Burton Act, the City promises to perform all the obligations and requirements set forth in the Burton Act, and agrees that the Transfer Agreement will become a binding obligation on the City prior to the transfer.

Requirements of Transfer

The Burton Act requires the City to establish a separate Harbor Trust Fund or funds in such manner as may be prescribed by the State Department of Finance. It is the intention of the parties as more specifically set forth in the Transfer Agreement that unless or until the Transfer Agreement is amended, the City will set up funds to the same extent and for the same purpose as the Port Authority funds set up by the State Controller of the State. When all the bond redemptions covered by a specific fund have been made or when the monies in Sea Wall Fund No. 4 or Sea Wall Fund No. 5 have been exhausted, those funds may be discontinued. Nothing in the Transfer Agreement, however, precludes the establishment of additional funds which may become necessary because of Harbor operations. The City agrees that all monies received directly from or indirectly attributable to the transferred lands or its facilities or any other property transferred by the Transfer Agreement will be deposited in the fund or funds set up pursuant to the Transfer Agreement. Monies not designated for other specific funds will be deposited in the San Francisco Harbor Improvement Fund.

The Burton Act provides that an annual statement of financial condition and operation will be transmitted by the City to the State Department of Finance each year on or before September 30th for the preceding Fiscal Year, and the City agrees that it will continue to submit to the State Director of Finance financial statements in accordance with the State Administrative Manual.

The City shall, at the request of the State Department of Finance, make its books and records in connection with the Harbor available for audit and inspection to auditors of the State in order that the State may insure that the provisions of the Burton Act are complied with and to assist the State Department of Finance in complying with its duties under the Burton Act.

Expenditure of Port Funds and Use of Property

All of the property transferred under the Burton Act is required to be held by the City in trust for purposes of commerce, navigation and fisheries and subject to the terms and conditions specified in the Burton Act and set forth

in the Transfer Agreement. All property acquired with funds derived from the transferred property is likewise required to be held by the City. Without prejudice to the generality of the foregoing, the parties agree specifically to the following:

Personal property transferred under the Burton Act and property later acquired with Port funds to replace such property shall continue to bear separate designations so that the trust nature of the property can be determined. In the event that the City uses said property for other than trust purposes, it shall reimburse the Port funds for the use of such property. Nothing in the Transfer Agreement shall, however, prevent the Port from disposing of personal property which is obsolete or is no longer required for the trust purposes, but in that event the funds derived therefrom shall become Port funds subject to the purposes of the trust.

The City shall not require the Port to perform functions or accept or employ personnel in excess of functions or personnel required to carry out the purposes of the trust.

The City may, if it elects to do so, undertake some or all of the functions of street maintenance within the Port area, but it may not require the Port to maintain streets and roadways outside the Port area nor may it require the Port to maintain streets, roadways, bridges or other facilities maintained by the City at the time of transfer, nor may it require the Port to undertake the furnishing or maintenance of streets, roadways and bridges primarily designed as thoroughfares for the City rather than as roadways for Port purposes. In the event streets, roadways or bridges perform a dual function, an appropriate division of costs shall be made. This provision is not intended to affect the Embarcadero, maintained by the Port at the time of transfer, nor is it intended to prevent the Port from constructing or maintaining any streets, roadways, bridges or sidewalks the Port deems required.

In the event that duties other than police traffic services in the Port area or protection of Port property are required of the Port police, payment for such additional duties shall be made from other than Harbor funds.

Revenue received from parking meters installed on the transferred lands shall continue to accrue to the Port so long as the Port installs, operates and maintains the meters.

The Port at the time of transfer performed at its own expense some fire protection services and reimbursed the City for certain other fire protection services. In the event additional fire protection services are required, such additional services shall not be paid for out of Harbor funds.

Nothing in the Transfer Agreement shall preclude the City from undertaking all or part of the services performed by the Port if economies will result therefrom. The Port shall not, however, be required to contribute to City services if such contribution will result in expenditures greater than those required.

Autonomous Operation

The Port Commission provided for by the Burton Act shall have all the powers and duties given to boards and commissions by the Charter of the City, and shall have the power to establish such departments and bureaus as may be necessary or convenient for the conduct of its affairs. Subject to the terms and conditions of the transfer and the Transfer Agreement, the Port Commission shall have the control and management of all real and personal property transferred under the Burton Act, or otherwise acquired or purchased with funds under its control or acquired or purchased by it within the scope of its authority, or otherwise placed under its management, supervision and control. The property under the control and management of the commission shall be known as the Port Area. The Port Commission shall have the power and duty to use, conduct, operate, maintain, manage, regulate, and control the Port Area of San Francisco and to do all things it deems necessary in connection with the use, conduct, operation, management, maintenance, regulation, improvement and control of said Port Area, or which may further the interests of the Port in world trade, including, without limiting the generality of the foregoing, the exclusive power to perform or accomplish the following in the Port Area:

1 The improvement, operation and conduct of the harbor, and any and all improvements or facilities located thereon;

2 The construction, reconstruction, repair, operation and use of all works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of commerce and navigation, or located within the Port Area;

3 The establishment, improvement and conduct of railroad and aviation facilities and all works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and conduct of air commerce and navigation and railroad transportation;

4 The construction, reconstruction, repair, maintenance and operation of public buildings, parks, playgrounds, public educational and recreation facilities and all works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of any such uses;

5 The preservation or restoration of marine resources consistent with the primary mission of the harbor of San Francisco;

6 The grant of franchises thereof for limited periods not exceeding 66 years for wharves and other public uses and purposes and the lease of said lands, facilities, or any part thereof for limited periods not exceeding 66 years, and the collection and retention of rents and other revenue from such leases, franchises, permits, licenses, and privileges. Such lease or leases, franchises, permits, licenses, and privileges shall be for purposes consistent with the trusts upon which the lands are held by the State and with the requirements of commerce and navigation, or if the Port Commission of the City determines that any portion of the transferred lands is not required for the foregoing uses described in this paragraph, such lease or leases, franchises, permits, licenses, and privileges, may be for the purposes of such development and use as the commission finds will yield maximum profits to be used by the commission in the furtherance of commerce and navigation;

7 Leases and franchises granted or made by the Port Commission shall be administered exclusively by the operating forces of the Port Commission;

8 There shall be a Port Director who shall be the chief executive of the Port Commission and who shall have the management of the affairs and activities placed under the jurisdiction of the commission. He shall devote his entire time to the duties of his office and his salary shall be fixed by the commission. He shall hold his office at the pleasure of the commission and shall have the management of said Harbor and of all of the facilities and equipment thereof and of all bureaus and departments established for the operation of said Harbor or for the operation of any equipment or facility thereof. Subject to the approval of the commission, he shall appoint and remove any and all heads of departments or bureaus who are not subject to the civil service provisions of the Charter of the City. He shall possess the necessary administrative, executive and technical qualifications necessary to enable him to perform the duties of his office. His compensation shall not exceed prevailing salaries paid those holding similar positions in comparable maritime employment. The commission may confer on him such additional powers and authority as it may see fit. Nothing in the foregoing provisions shall be construed to prohibit an amendment to the Charter of the City to provide for the appointment of a Port Director by the commission.

1 To regulate the berthing, anchoring, towing, loading and unloading and mooring of vessels within the Port;

2 To issue receipts, negotiable or otherwise, for property or merchandise in its charge or possession;

3 To fix all rates, dockage, rentals, tolls, wharfage, and charges, for the use and occupation of the public facilities or appliances of the Port, and for services rendered by the Port Commission, and to provide for the collection thereof;

4 To enter into contracts, agreements, or stipulations germane to the scope of its powers and duties;

5 To give such bonds or assurances as may be required by the United States in the operations permitted under the Transfer Agreement;

6 To provide and equip offices within or without the Port, within other states, or in foreign countries, and through such employees and agencies as it may deem expedient;

7 To contract for and operate foreign trade zones within the Port Area or auxiliary to the Port Area, or such zones or sub-zones as have been operated by the San Francisco Port Authority. Agreement may be made with the Public Utilities Commission for operation of future zones or sub-zones in other areas;

8 Members and officers of the Port Commission shall be exempt from the provisions of the Charter of the City relating to absences from the State, but shall advise the Mayor and the Board of Supervisors of the City in advance of such absences;

9. May promote the maritime and commercial interests of the Harbor by advertising its advantages and facilities and by the solicitation of business. The advertising and solicitation may be conducted within or without the State and through such agencies, mediums, employees and agents as are determined by the commission. The commission may, in its discretion, publish and distribute a magazine, pamphlets, booklets and other printed and advertising matter for the purpose of developing traffic and promoting and maintaining the commerce and prestige of the Port, and may use any monies of the Harbor Fund for the special purposes described in this paragraph. Members and employees of the commission in attending conventions of port authorities and meetings of transportation clubs, trade associations and business organizations that may advance the interests of the Port shall be allowed their actual necessary expenses in the performance of such services as may from time to time be deemed desirable by the commission and shall be allowed hospitality expenses necessarily incurred in furthering the interests of the Port;

10. To issue revenue bonds for purposes of the Burton Act;

11. expend all funds necessary to the carrying out of the powers and duties expressed in the Transfer Agreement: The Transfer Agreement vests in the Port Commission all of the powers set forth in the Burton Act.

It is the understanding of the parties that the finding of the Department of City Planning that a proposed capital improvement project on Port property does not conform to the Master Plan does not preclude the Board from authorizing an appropriation of Port funds for the capital improvement project.

Protection of Existing Uses

The City is required to make every effort to provide users of the property at the time of transfer with continued occupancy under fair terms and conditions and without unfair advantage or discrimination.

Amendment

The Transfer Agreement is binding on the City and the State Department of Finance unless or until the parties amend the Transfer Agreement in writing.

In the event, however, that the State Legislature amends, modifies or revokes the Burton Act, as provided therein, to the extent such action of the State Legislature is not in conformity with the Transfer Agreement, the Transfer Agreement will be deemed amended, modified or revoked thereby in accordance with the action of the Legislature. In that event the parties to the Transfer Agreement will meet promptly to negotiate any necessary changes.

Summary of State Legislation Governing Use and Development of Port of San Francisco Piers 3032, Mission Bay and Western Pacific Properties.

Ch. 489, California Stats. of 2001 (Cruise Terminal Legislation).

In September 2001, the State Legislature adopted legislation, known as AB 1389, sponsored by Assemblyman Kevin Shelley. The Governor signed AB 1389 in October 2001. Among other items, AB 1389: 1) allows 300,000 leasable square feet of office space on Piers 30-32 and allows an additional 25,000 square feet in the cruise terminal facility for no longer than 14 years, converting to trust use at that time or sooner if needed for cruise terminal expansion; and 2) allows a limited amount of non-trust retail (i.e., there must be a greater amount of trust-consistent retail and the ratio of trust to non-trust retail must be at least 40% of total office leasable space).

AB 1389 also accelerates the timing for the completion of the Brannan Street Wharf, a new waterfront park to be constructed between Piers 30-32 and Pier 38, as identified in the San Francisco Bay Conservation and Development Commission (BCDC) Special Area Plan. With review by BCDC, the Port must approve the final design concept for the Brannan Street Wharf, prior to the submittal of a major permit application to BCDC, encumber funds for the completion of the Brannan Street Wharf, place funds in a segregated account prior to issuance of a BCDC permit, construct the northern portion of the Brannan Street Wharf contemporaneously with the Piers 30-32 project, and remove Pier 36 and complete the Brannan Street Wharf no later than five years after the start of construction of the Piers 30-32 project. AB 1389 also ratified and confirmed the Special Area Plan as necessary to the health, safety and welfare of the public in the entire Bay Area.

Ch. 203, California Stats. 1997 (Mission Bay Legislation).

This State legislation adopted in 1997 (SB 1215) authorized the removal of the public trust and the Burton Act trust from certain property owned by the City, the Port and Catellus located in the Mission Bay North and South Redevelopment Plan Areas and authorized the placement of the public trust on other property in Mission Bay, together with certain use restrictions contemplated by the legislation. The areas of public trust include streets and areas along the water within Port jurisdiction as shown on the map attached to SB 1215 and restricts uses within those areas to public parks, open space, public access to and along the shoreline, rail within existing public roadways, and utility facilities that do not significantly impair the use of those lands for those uses. Other interim uses are permitted provided that the interim uses may be converted to the permitted uses under specified circumstances.

SB 1215 also authorized the removal of public trust claims from the inland areas of the Western Pacific Property, a 35 acre site located between Cesar Chavez Street, 25th Street, Illinois Street, and the Bay, and replaced the public trust on a 125' shoreline band and in the submerged portions of the Western Pacific Property in the Bay. As discussed below, in 2003, the State Lands Commission approved an exchange of the public trust from a portion of Seawall Lot 330 to a portion of the Western Pacific Property.

Western Pacific/SWL 330 Trust Exchange (California State Lands Commission Action).

In 2003, the State Lands Commission approved an exchange of the public trust between a portion of a Port's Seawall Lot, SWL 330, and the Western Pacific Property. This exchange allowed for the removal of the public trust restriction on a portion of SWL 330, which in turn allowed for the $9 million sale of that parcel for development of a condominium tower. In exchange, the public trust and Burton Act trust is now placed on an approximately 8.77 acre site located between Maryland Street, Cesar Chavez Street, and 25th Street, on the eastern portion of the Western Pacific parcel, thereby restricting use and development on the Western Pacific property for uses consistent with the public trust and Burton Act trust.

Ch. 660, California Stats. of 2007 (Seawall Lots 328, 330, 337 and 347S)

This State legislation, adopted in October 2007 (SB 815), declares certain paper streets as no longer useful for public trust or Burton Act trust purposes. The legislation amends the Burton Act by authorizing the City to lease, sell, or otherwise transfer the streets free of the public trust and Burton Act trust or any other restrictions on use or alienability created by the Transfer Agreement, subject to specified terms and conditions. The paper streets include portions of the following streets: (1) Daggett Street; (2) Texas Street; (3) Custer Avenue; (4) Evans Street; (5) Davidson Avenue; (6) Ingalls Street; and (7) Arthur Avenue. The Port must deposit all revenues from the lease, sale or transfer of the streets in a separate account in the Port's harbor fund to be expended solely for the purpose of implementing the Port's capital plan.

SB 815 declares seawall lots 328, 330, 337, and 347S no longer useful for public trust and Burton Act trust purposes except for the production of revenue to support the purposes of the Burton Act trust. The legislation amends the Burton Act by declaring the seawall lots free from the use restrictions of the public trust, Burton Act trust, and the Transfer Agreement until January 1, 2094, subject to specified terms and conditions. The seawall lots remain subject to all other restrictions of the public trust, Burton Act trust and Transfer Agreement. SB 815 authorizes the Port to lease all or portions of any of the seawall lots for non-trust uses subject to specified terms and conditions. The term of any such lease may not exceed 75 years, including extensions. The Port must deposit all revenues generated from a non-trust lease in a separate account in the Port's harbor fund for the preservation of historic piers and historic structure, or the construction and maintenance of waterfront plazas and opens space required by the Bay Conservation and Development Commission's special area plan. The Port may annually transfer funds from the separate account to the general account of the harbor fund for trust or Burton Act trust consistent purposes, subject to specified terms and conditions. The seawall lots become subject to the public trust, Burton Act trust, and Transfer Agreement use restrictions again on January 1, 2094. No later than that date, the Port must remove or modify all structures, buildings, and appurtenances on any of the seawall lots that is not consistent with the purposes of the public trust, Burton Act trust, and the Transfer Agreement to facilitate public trust uses.

ATTACHMENT 3

CONTINUING DISCLOSURE CERTIFICATE

This Continuing Disclosure Certificate (the "Disclosure Certificate") is executed and delivered by the Port Commission of the City and County of San Francisco (the "Port Commission") in connection with the issuance of $_____ aggregate principal amount of Port Commission of the City and County of San Francisco Revenue Bonds, Series 2009A and Series 2009B (collectively, the "Bonds"). The Bonds are being issued pursuant to an Indenture of Trust, dated as of [November 1], 2009, between the Port Commission and [TRUSTEE], as trustee (the "Trustee"), as amended and supplemented by a First Supplement to Indenture of Trust, dated as of [November 1], 2009, between the Port Commission and the Trustee (collectively, the "Indenture").

The Port Commission covenants and agrees as follows:

Section 1. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the Port Commission for the benefit of the Holders and Beneficial Owners of the Bonds and in order to assist the Participating Underwriters in complying with Securities and Exchange Commission (the "S.E.C.") Rule 15c2-12(b)(5).

Section 2. Definitions. In addition to the definitions set forth in the Indenture, which apply to any capitalized term used in this Disclosure Certificate unless otherwise defined in this Section 2, the following capitalized terms shall have the following meanings:

"Annual Report" shall mean any Annual Report provided by the Port Commission pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

"Beneficial Owner" shall mean any person which: (a) has or shares the power, directly or indirectly, to make investment decisions concerning ownership of any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries) including, but not limited to, the power to vote or consent with respect to any Bonds or to dispose of ownership of any Bonds; or (b) is treated as the owner of any Bonds for federal income tax purposes.

"Dissemination Agent" shall mean the Port Commission, acting in its capacity as Dissemination Agent under this Disclosure Certificate, or any successor Dissemination Agent designated in writing by the Port Commission and which has filed with the Port Commission a written acceptance of such designation.

"Holder" shall mean either the registered owners of the Bonds, or, if the Bonds are registered in the name of The Depository Trust Company or another recognized depository, any applicable participant in such depository system.

"Listed Events" shall mean any of the events listed in Section 5(a) of this Disclosure Certificate.

"MSRB" shall mean the Municipal Securities Rulemaking Board or any other entity designated or authorized by the Securities and Exchange Commission to receive continuing disclosure filings pursuant to the Rule. Until otherwise designated by the MSRB or the Securities and Exchange Commission, filings with the MSRB are to be made through the Electronic

Municipal Market Access (EMMA) website of the MSRB currently located at *http://emma.msrb.org.*

"Official Statement" shall mean the final Official Statement, dated _____, 2009, prepared in connection with the sale and offering of the Bonds.

"Participating Underwriter" shall mean any of the original underwriters or purchasers of the Bonds required to comply with the Rule in connection with offering of the Bonds.

"Rule" shall mean Rule 15c2-12(b)(5) adopted by the S.E.C. under the Securities Exchange Act of 1934, as the same may be amended from time to time.

Section 3. Provision of Annual Reports.

(a) The Port Commission shall, or shall cause the Dissemination Agent to, not later than 9 months after the end of the Port Commission's Fiscal Year (which currently ends June 30), commencing March 31, 2011, with the report for the 2009-10 Fiscal Year, provide to the MSRB an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Certificate. If the Dissemination Agent is not the Port Commission, the Port Commission shall provide the Annual Report to the Dissemination Agent not later than 15 days prior to said date. The Annual Report must be submitted in electronic format and accompanied by such identifying information as is prescribed by the MSRB, and may cross-reference other information as provided in Section 4 of this Disclosure Certificate; *provided*, that if the audited financial statements of the Port Commission are not available by the date required above for the filing of the Annual Report, the Port Commission shall submit unaudited financial statements and submit the audited financial statements as soon as they are available. If the Port Commission's Fiscal Year changes, it shall give notice of such change in the same manner as for a Listed Event under Section 5(c).

(b) If the Port Commission is unable to provide to the MSRB an Annual Report by the date required in subsection (a), the Port Commission shall send a notice to the MSRB in substantially the form attached as Exhibit A.

(c) The Dissemination Agent shall (if the Dissemination Agent is other than the Port Commission), file a report with the Port Commission certifying the date that the Annual Report was provided to the MSRB pursuant to this Disclosure Certificate.

Section 4. **Content of Annual Reports**. Port Commission's Annual Report shall contain or incorporate by reference the following information:

(a) Audited Financial Statements of the municipal water supply, storage and distribution system of the Port Commission for the prior Fiscal Year, prepared in accordance with generally accepted accounting principles applicable to the Port Commission from time to time. If the Port Commission's audited financial statements are not available by the date the Annual Report is required to be filed, the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the final Official Statements, and the audited financial statements shall be filed in the same manner as the Annual Report when they become available;

(b) Updated information in the table captioned "MAJOR PORT OPERATING REVENUES";

(c) Updated information in the table "PORT OF SAN FRANCISCO, REAL ESTATE LEASES, REMAINING LEASE TERMS";

(d) Updated information in the table captioned "TOP 10 TENANTS FISCAL YEAR ENDING JUNE 30, 2009";

(e) Updated information in the table captioned "PORT OF SAN FRANCISCO, HISTORICAL RESULTS OF OPERATIONS FOR FISCAL YEAR ENDED JUNE 30";

(f) Updated information in the table captioned "PORT OF SAN FRANCISCO, HISTORICAL OPERATION & MAINTENANCE EXPENSES FOR FISCAL YEAR ENDING JUNE 30"; and

(g) Updated information in the table captioned "PORT OF SAN FRANCISCO HISTORICAL, DEBT SERVICE COVERAGE, FOR FISCAL YEARS ENDED JUNE 30".

Any or all of the items listed above may be set forth in a document or set of documents, or may be included by specific reference to other documents, including official statements of debt issues of the Port Commission or related public entities, which are available to the public on the MSRB website. If the document included by reference is a final official statement, it must be available from the MSRB. The Port Commission shall clearly identify each such other document so included by reference.

Section 5. Reporting of Significant Events.

(a) To the extent applicable and pursuant to the provisions of this Section 5, the Port Commission shall give, or cause to be given, notice of the occurrence of any of the following events with respect to the Bonds, if material:

1. Principal and interest payment delinquencies.

2. Non-payment related defaults.

3. Modifications to rights of Holders.

4. Optional, contingent or unscheduled bond calls.

5. Defeasances.

6. Rating changes.

7. Adverse tax opinions or events affecting the tax-exempt status of the Bonds.

8. Unscheduled draws on debt service reserves reflecting financial difficulties.

9. Unscheduled draws on credit enhancements reflecting financial difficulties.

10. Substitution of credit or liquidity providers or their failure to perform.

11. Release, substitution or sale of property securing repayment of the Bonds.

(b) Whenever the Port Commission obtains knowledge of the occurrence of a Listed Event, the Port Commission shall as soon as possible determine if such event would be material under applicable federal securities laws.

(c) If the Port Commission determines that knowledge of the occurrence of a Listed Event would be material under applicable federal securities laws, the Port Commission shall promptly file a notice of such occurrence with the MSRB in electronic format, accompanied by such identifying information as is prescribed by the MSRB. Notwithstanding the foregoing, notice of a Listed Event described in Section 5(a)(4) need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to Holders and Beneficial Owners of affected Bonds pursuant to the Indenture.

Section 6. Termination of Reporting Obligation. The Port Commission's obligations under this Disclosure Certificate shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds. If such termination occurs prior to the final maturity of the Bonds, the Port Commission shall give notice of such termination in the same manner as for a Listed Event under Section 5(c).

Section 7. Dissemination Agent. The Port Commission may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate.

Section 8. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the Port Commission may amend or waive this Disclosure Certificate or any provision of this Disclosure Certificate, provided that the following conditions are satisfied:

(a) If the amendment or waiver relates to the provisions of Sections 3(a), 3(b), 4 or 5(a), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of an obligated person with respect to the Bonds or the type of business conducted;

(b) The undertaking, as amended or taking into account such waiver, would, in the opinion of the City Attorney or nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) The amendment or waiver either (i) is approved by the owners of a majority in aggregate principal amount the Bonds or (ii) does not, in the opinion of the City Attorney or nationally recognized bond counsel, materially impair the interests of the Holders.

In the event of any amendment or waiver of a provision of this Disclosure Certificate, the Port Commission shall describe such amendment in the next Annual Report, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial

information or operating data being presented by the Port Commission. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements: (i) notice of such change shall be given in the same manner as for a Listed Event under Section 5; and (ii) the Annual Report for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

Section 9. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the Port Commission from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the Port Commission chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Certificate, the Port Commission shall have no obligation under this Disclosure Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

Section 10. Default. In the event of a failure of the Port Commission to comply with any provision of this Disclosure Certificate, any Participating Underwriter, Holder or Beneficial Owner of the Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Port Commission to comply with its obligations under this Disclosure Certificate; provided that any such action may be instituted only in a federal or state court located in the City and County of San Francisco, State of California. Failure by the Port Commission to comply with any provision of this Disclosure Certificate shall not be deemed an Event of Default under the Indenture and the sole remedy under this Disclosure Certificate in the event of any failure of the Port Commission to comply with this Disclosure Certificate shall be an action to compel performance.

Section 11. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the Port Commission, the Dissemination Agent, the Participating Underwriters and Holders and Beneficial Owners from time to time of the Bonds, and shall create no rights in any other person or entity.

Date:_____, 2009.

PORT COMMISSION OF THE CITY AND
COUNTY OF SAN FRANCISCO

By_____
Executive Director

Approved as to Form:

DENNIS J. HERRERA
CITY ATTORNEY

By: _____
Deputy City Attorney

EXHIBIT A

FORM OF NOTICE TO THE MUNICIPAL SECURITIES RULEMAKING BOARD OF FAILURE TO FILE ANNUAL REPORT

Name of Issuer: PORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO

Name of Issue: PORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO REVENUE BONDS, SERIES 2009A AND SERIES 2009B

Date of Issuance: _____, 2009

NOTICE IS HEREBY GIVEN that the Port Commission has not provided an Annual Report with respect to the above-named Bonds as required by Section 3 of the Continuing Disclosure Certificate of the Port Commission of the City and County of San Francisco, dated the Date of Issuance. The Port Commission anticipates that the Annual Report will be filed by _____.

Dated:_____

PORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO

By:_____[to be signed only if filed]_____
Title _____

ATTACHMENT 4

INDENTURE OF TRUST

by and between the

**PORT COMMISSION OF THE
CITY AND COUNTY OF SAN FRANCISCO**

and

[TRUSTEE],
as Trustee

Dated as of _____ 1, 2009

**PORT COMMISSION OF THE
CITY AND COUNTY OF SAN FRANCISCO
REVENUE BONDS**

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INDENTURE OF TRUST

This INDENTURE OF TRUST, dated as of _____1, 2009 (the "Indenture"), by and between the PORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO (the "Commission"), duly constituted and established under Sections 4.100 *et seq.* of the Charter of the City and County of San Francisco and [TRUSTEE], a _____, duly organized under the laws of _____, as trustee (the "Trustee");

W I T N E S S E T H:

WHEREAS, the Commission has entered into an agreement dated as of January 24, 1969 (the "State Agreement") pursuant to which the State of California has transferred ownership of the Port of San Francisco to the City and County of San Francisco (the "City"); and

WHEREAS, under Section 4.114 of the Charter of the City and County of San Francisco (the "Charter"), the Commission has under its management, supervision, operation and control all real and personal property transferred under State of California Statutes 1968, Chapter 1333, and of all other properties wherever situated as it may acquire or which may be placed under its management, supervision or control (the "Port Area"); and

WHEREAS, under Section 9.107 of the Charter and Ordinance No. _____ adopted by the Board of Supervisors of the City (the "Board") on _____, 2009 and signed by the Mayor on _____, 2009, and codified as Chapter 43, Article XII of the San Francisco Administrative Code, the Commission has the authority to issue port revenue bonds for the purpose of acquiring, constructing, improving or developing ports or port facilities under its jurisdiction and port revenue refunding bonds under such terms and conditions as the Commission may authorize by resolution; and

WHEREAS, the Commission has authorized and issued the Bonds pursuant to Resolution No. ____ of the Commission, adopted on _____, 2009 (the "Port Commission Resolution") and the Board of the City has approved the Series 2009 Bonds pursuant to Resolution No. _____, adopted on _____, 2009 and signed by the Mayor on _____, 2009 (the "City Resolution"); and

WHEREAS, the Commission deems it necessary and desirable and in the public interest to authorize the issuance of one or more series of port revenue bonds (the "Bonds") under and in accordance with the Charter and the Act and pursuant to the terms and conditions set forth herein, for the purpose of financing the Project, refunding outstanding Bonds and for any other purpose authorized by law as it may determine from time to time; and

NOW, THEREFORE, THIS INDENTURE WITNESSETH that in order to secure the payment of the Principal Amount of, premium, if any, and the interest on all Bonds at any time issued, authenticated and delivered hereunder and to secure the performance of the terms, conditions, covenants, agreements, trusts, uses and purposes hereinafter expressed, and in consideration of the premises and covenants herein contained and of the purchase and acceptance of the Bonds by the Owners thereof, and for other valuable consideration, the receipt of which is

hereby acknowledged, the Commission does hereby agree and covenant with the Trustee for the benefit of the respective Owners, from time to time, of the Bonds, or any part thereof, as follows:

ARTICLE I

DEFINITIONS AND RULES OF CONSTRUCTION

Section 1.01. Definitions. The following terms, for all purposes of this Indenture and any Supplemental Indenture shall have the following meanings unless a different meaning clearly applies from the context:

"Accreted Value" shall mean, as of any date of calculation, with respect to any Capital Appreciation Bond, the initial principal amount thereof plus the interest accumulated, compounded and unpaid thereon as of such date of calculation if a compounding date, or if such calculation date is other than a compounding date, the most recently past compounding date.

"Act" shall mean the Charter of the City and County of San Francisco, as supplemented and amended, and all enactments of the Board adopted pursuant thereto, including Ordinance No. _____ adopted by the Board of the City on _____, 2009 and signed by the Mayor on _____, 2009, and codified as Chapter 43, Article XII of the San Francisco Administrative Code.

"Amortized Bonds" shall mean those Bonds subject, pursuant to their terms, to optional or mandatory tender for purchase prior to maturity by or on behalf of the Commission or a Credit Provider.

"Annual Debt Service" shall mean in any Fiscal Year (i) the amount scheduled to become due and payable on the Outstanding Bonds or any one or more Series thereof in any Fiscal Year as (a) interest, plus (b) Principal Amount at maturity, plus (c) mandatory sinking fund redemptions, (ii) Swap Payments scheduled to be paid under an Interest Rate Swap and (iii) Repayment Obligations. For purposes of calculating Annual Debt Service, the following assumptions shall be used:

(i) All Principal Amount payments and mandatory sinking fund redemptions shall be made as and when the same shall become due;

(ii) Outstanding Variable Rate Bonds shall be deemed to bear interest during any period after the date of calculation at a fixed annual rate equal to the average of the actual rates on such Variable Rate Bonds for each day during the 365 consecutive days (or any lesser period such Bonds have been outstanding) ending on the last day of the month next preceding the date of computation, or at the effective fixed annual rate thereon as a result of an Interest Rate Swap payable on a parity to the Variable Rate Bonds to which it relates (in which case, the scheduled amount due under such Variable Rate Bonds and the related Interest Rate Swap shall be deemed to be the fixed annual rate under the Interest Rate Swap);

(iii) Variable Rate Bonds proposed to be issued shall be deemed to bear interest at a fixed annual rate equal to the estimated initial rate or rates thereon, as set forth in a

certificate of the Commission prior to the date of delivery of such Bonds, or at the effective fixed annual rate thereon as a result of an Interest Rate Swap payable on a parity to the Variable Rate Bonds to which it relates (in which case, the scheduled amount due under such variable rate Bonds and the related Interest Rate Swap shall be deemed to be the fixed annual rate under the Interest Rate Swap);(iii) If any Interest Rate Swap is in effect pursuant to which the Commission pays Swap Payments at a variable rate, and such Interest Rate Swap is payable on a parity with the fixed rate Bonds to which it relates, no amounts payable under such Interest Rate Swap shall be included in the calculation of Annual Debt Service unless the sum of (i) interest payable on such fixed rate Bonds, plus (ii) amounts payable by the Commission under such Interest Rate Swap calculated by the same method as variable rate interest pursuant to paragraphs (ii) and (iii) above, less (iii) amounts receivable by the Commission under such Interest Rate Swap are greater than the interest payable on the fixed rate Bonds to which it relates, then, in such instance, the amount of such payments to be made that exceed the interest to be paid on the fixed rate Bonds shall be included in such calculation;

(iv) If any Bonds are Paired Obligations, the interest rate on such Bonds shall be the resulting fixed interest rate to be paid by the Commission with respect to such Paired Obligations;

(v) Amortized Bonds shall be deemed to be amortized on a level debt service basis over the period beginning on the date of calculation to the date of final maturity of such Amortized Bonds at the then current Index Rate;

(vi) Capitalized interest on any Bonds and accrued interest paid on the date of initial delivery of any Series of Bonds shall be excluded from the calculation of Annual Debt Service if cash and/or Permitted Investments have been irrevocably deposited with and are held by the Trustee or other fiduciary for the Owners of such Bonds sufficient to pay such interest;

(vii) Repayment Obligations proposed to be entered into which are secured by Net Revenue on a parity with the Bonds as provided in Section 2.13(a) hereof shall be deemed to be payable at the maximum amount which may become due and payable under the terms of the Credit Facility or reimbursement agreement pursuant to which such Repayment Obligation arises (provided that Annual Debt Service for the purposes of this calculation shall only include the larger of (i) any such Repayment Obligation or (ii) the amount due under the Bonds to which such Repayment Obligation relates as calculated above under paragraph of this definition); and

(ix) the interest rate on Build America Bonds shall be deemed to be reduced by the expected amount of Refundable Credit.

"Authenticating Agent" shall mean, with respect to any Series of Bonds, each person or entity, if any, designated as such by the Commission herein or in the Supplemental Indenture authorizing the issuance of such Bonds, and its successors and assigns and any other person or entity which may at any time be substituted for it pursuant thereto.

"Authorized Commission Representative" shall mean the Executive Director or Deputy Director of Finance and Administration or the Finance Manager of the Commission, or the respective successors to the powers and duties thereof, or such other person as may be designated to act on behalf of the Commission by written certificate furnished to the Trustee containing the specimen signature of such person and signed on behalf of the Commission by the Executive Director or Deputy Director of Finance and Administration or the Finance Manager of the Commission, or their respective successors.

"Authorized Newspapers" shall mean a financial newspaper or newspapers or journal or journals, printed in the English language and customarily published on each Business Day, of general circulation in the financial community in San Francisco, California and New York, New York.

"Board of Supervisors" shall mean the Board of Supervisors of the City and County of San Francisco, as duly elected, appointed and qualified from time to time in accordance with the provisions of the Charter.

"Bond Counsel" shall mean an attorney or firm of attorneys of national recognition selected or employed by the Commission with knowledge and experience in the field of municipal finance.

"Bonds" shall mean any evidences of indebtedness for borrowed money issued from time to time by the Commission hereunder or under a Supplemental Indenture pursuant to Article II hereof, including but not limited to bonds, notes, bond anticipation notes, commercial paper, lease or installment purchase agreements or certificates of participation therein. Bonds may also include, for the purposes of any particular provision of this Indenture as provided in a Supplemental Indenture, any other obligation, including but not limited to contractual obligations, entered into by the Commission pursuant to the terms hereof with a lien on Net Revenue on a parity with other Outstanding Bonds.

"Build America Bonds" shall mean a Series of Bonds that are subject to Section 54AA of the Code pursuant to an irrevocable election of the Commission or similar tax credit bonds.

"Business Day" shall mean, unless otherwise specified by Supplemental Indenture, any day of the week other than Saturday, Sunday or a day which shall be, in the State of California, the State of New York or in the jurisdiction in which the Corporate Trust Office of the Trustee or the principal office of the Registrar is located, a legal holiday or a day on which banking institutions are authorized or obligated by law or executive order to close.

"Capital Appreciation Bonds" shall mean Bonds the interest on which is compounded and accumulated at the rate or rates and on the date or dates set forth in the Supplemental Indenture authorizing the issuance thereof and which is payable only upon redemption and/or on the maturity date thereof.

"Charter" shall mean the Charter of the City and County of San Francisco, as supplemented and amended, and any new or successor Charter.

"City" shall mean the City and County of San Francisco, a chartered city and county and municipal corporation duly organized and existing under and by virtue of the Constitution and laws of the State of California.

"Code" shall mean the Internal Revenue Code of 1986, as amended, and the applicable Treasury Regulations, rulings and procedures proposed or promulgated thereunder or under the Internal Revenue Code of 1954, as amended.

"Commission" shall mean the Port Commission of the City and County of San Francisco as duly constituted from time to time under the Charter, and all commissions, agencies or public bodies which shall succeed to the powers, duties and obligations of the Commission.

"Corporate Trust Office" shall mean the office of the Trustee at which its principal corporate trust business is conducted, which at the date hereof is located in _____.

"Coverage" shall have the meaning provided in Section 6.02(d).

"Credit Facility" shall mean a letter of credit, line of credit, standby purchase agreement, municipal bond insurance policy, surety bond or other financial instrument which obligates a third party to pay or provide funds for the payment of the Principal Amount or purchase price of and/or interest on any Bonds and which is designated as a Credit Facility in a Supplemental Indenture.

"Credit Provider" shall mean the person or entity obligated to make a payment or payments with respect to any Bonds under a Credit Facility.

"Debt Service Fund" shall mean the Debt Service Fund established pursuant to Section 5.02 hereof.

"Delivery Costs" shall mean all items of expense directly or indirectly payable by or reimbursable to the Commission relating to the authorization, issuance, sale and delivery of the Bonds, including, but not limited to, printing expenses, filing and recording fees, fees and charges of the Trustee and its counsel, fees, charges and disbursements of attorneys, financial advisors, accounting firms, consultants and other professionals, fees and charges for preparation, execution and safekeeping of the Bonds, bond insurance premiums or other fees in connection with credit enhancement or other credit facilities obtained in connection with Bonds, rating agency fees and any other cost, charge or fee in connection with the original issuance of Bonds.

"Delivery Costs Funds" shall mean, collectively, the Delivery Costs Funds established pursuant to Section 4.01 hereof.

"Enterprise Fund" shall mean the San Francisco Harbor Trust Fund created pursuant to Section B6.406 of the Charter and held by the Treasurer, and any successor to such fund.

"Event of Default" shall mean any one or more of those events set forth in Section 7.01 hereof.

"Fiscal Year" shall mean the one-year period beginning on July 1 of each year and ending on June 30 of the succeeding calendar year, or such other one-year period as the Commission shall designate as its Fiscal Year.

"Fitch" shall mean Fitch Ratings, a corporation duly organized and existing under and by virtue of the laws of the State of Delaware, and its successors and assigns, except that if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency for any reason, then the term "Fitch" shall be deemed to refer to any other nationally recognized securities rating agency selected by the Commission.

"Fund" or "Account" shall mean any fund or account established pursuant to this Indenture.

"Government Certificates" shall mean evidences of ownership of proportionate interests in future principal or interest payments of Government Obligations, including depository receipts thereof. Investments in such proportionate interests must be limited to circumstances wherein (i) a bank or trust company acts as custodian and holds the underlying Government Obligations; (ii) the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor of the underlying Government Obligations; and (iii) the underlying Government Obligations are held in a special account, segregated from the custodian's general assets, and are not available to satisfy any claim of the custodian, or any person claiming through the custodian, or any person to whom the custodian may be obligated.

"Government Obligations" shall mean direct and general obligations of, or obligations the timely payment of principal of and interest on which are unconditionally guaranteed by, the United States of America.

"Holder," "Bondholder," "Owner" and "Bondowner" shall mean the person or persons in whose name any Bond or Bonds are registered on the records maintained by the Registrar.

"IFD Revenues" shall mean revenues available to the Commission from an Infrastructure Financing District.

"Indenture" shall mean this Indenture of Trust, dated as of ____ 1, 2009, by and between the Commission and the Trustee, as the same may be amended or supplemented pursuant to the terms hereof.

"Independent Auditor" shall mean a firm or firms of independent certified public accountants with knowledge and experience in the field of governmental accounting and auditing selected or employed by the Commission.

"Index Rate" shall mean the rate equal to the SIFMA Municipal Swap Index, or if such index ceases to be published, a comparable index published by the SIFMA or its successor or, if no comparable index then exists, eighty percent (80%) of the interest rate on actively traded ten (10) year United States Treasury Obligations.

"Infrastructure Financing District" means any district established pursuant to Chapter 2.8 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California or a similar law.

"Insolvent" shall be used to describe the Trustee, any Paying Agent, Authenticating Agent, Registrar, other agent appointed under the Indenture or any Credit Provider, if (a) such person shall have instituted proceedings to be adjudicated a bankrupt or insolvent, shall have consented to the institution of bankruptcy or insolvency proceedings against it, shall have filed a petition or answer or consent seeking reorganization or relief under the federal Bankruptcy Code or any other similar applicable federal or state law, or shall have consented to the filing of any such petition or to the appointment of a receiver, liquidator, assignee, trustee or sequestrator or other similar official of itself or of any substantial part of its property, or shall fail to timely controvert an involuntary petition filed against it under the federal Bankruptcy Code, or shall consent to the entry of an order for relief under the federal Bankruptcy Code or shall make an assignment for the benefit of creditors or shall admit in writing its inability to pay its debts generally as they become due; or (b) a decree or order by a court having jurisdiction in the premises adjudging such person as bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of such person under the federal Bankruptcy Code or any other similar applicable federal or state law or for relief under the federal Bankruptcy Code after an involuntary petition has been filed against such person, or appointing a receiver, liquidator, assignee, trustee or sequestrator or other similar official of such person or of any substantial part of its property, or ordering the winding up or liquidation of its affairs, shall have been entered and shall have continued unstayed and in effect for a period of 90 consecutive days.

"Interest Payment Date" shall mean, with respect to any Series of Bonds, each date specified herein or in the Supplemental Indenture authorizing the issuance thereof for the payment of interest on such Bonds.

"Interest Rate Swap" shall mean an agreement between the Commission and a Swap Counter Party related to Bonds of one or more Series whereby a variable rate cash flow (which may be subject to an interest rate cap) on a principal or notional amount is exchanged for a fixed rate of return on an equal principal or notional amount.

"Maximum Annual Debt Service" shall mean the maximum amount of Annual Debt Service in any Fiscal Year during the period from the date of calculation to the final scheduled maturity of the Bonds.

"Moody's" shall mean Moody's Investors Service, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and assigns, except that if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency for any reason, the term "Moody's" shall be deemed to refer to any other nationally recognized securities rating agency selected by the Commission.

"Net Revenue" shall mean Revenue less Operation and Maintenance Expenses.

"Operation and Maintenance Expenses" shall mean, for any period, all expenses of the Commission incurred for the operation and maintenance of the Port Area, as determined in accordance with generally accepted accounting principles. Operation and Maintenance Expenses shall not include: (a) the principal of, premium, if any, or interest (including capitalized interest) on any Bonds, Subordinate Bonds, general obligation bonds issued by the City for Port Area purposes or other Port indebtedness; (b) any allowance for amortization, depreciation or obsolescence of the Port Area; (c) any expense for which, or to the extent to which, the Commission is or will be paid or reimbursed from or through any source that is not included or includable as Revenue, including, but not limited to, Special Facility Revenue; (d) any extraordinary items arising from the early extinguishment of debt; (e) any costs, or charges made therefor, for capital additions, replacements, betterments, extensions or improvements to the Port Area which, under generally accepted accounting principles, are properly chargeable to the capital account or any reserves for depreciation; (f) any losses from the sale, abandonment, reclassification, revaluation or other disposition of any Port Area properties; (g) items that are unusual or unrelated to the Commission's ordinary activities and would occur infrequently, including but not limited to litigation settlements or awards or other items not included in the annual budget or non-cash items paid over a number of years; (h) non-cash expenses arising from pension and post-employment pension benefits; and (i) dredging costs.

"Opinion of Bond Counsel" shall mean a written opinion of Bond Counsel.

"Opinion of Counsel" shall mean a written opinion of an attorney or firm of attorneys acceptable to the Trustee and the Commission, and who (except as otherwise expressly provided herein) may be either counsel for the Commission or for the Trustee.

"Outstanding" when used with reference to a Series of Bonds shall mean, as of any date of determination, all Bonds of such Series which have been executed and delivered under this Indenture except: (a) Bonds cancelled by the Trustee or delivered to the Trustee for cancellation; (b) Bonds which are deemed paid and no longer Outstanding as provided in Section 10.01 hereof or in any Supplemental Indenture authorizing the issuance thereof, (c) Bonds in lieu of which other Bonds have been issued pursuant to the provisions hereof or of any Supplemental Indenture authorizing the issuance thereof, and (d) for purposes of any consent or other action to be taken under the Indenture by the Holders of a specified percentage of Principal Amount of Bonds of a Series or all Series, Bonds held by or for the account of the Commission.

"Paired Obligations" shall mean any one or more Series (or portion thereof) of Bonds, designated as Paired Obligations in a Supplemental Indenture or a certificate of the

Commission, which are simultaneously issued, executed or delivered and (i) the principal or notional amount of which, as applicable, is of equal amount and (ii) the interest rates on which, taken together, result in an irrevocably fixed rate obligation of the Commission for the term of such Bonds.

"Paying Agent" shall mean, with respect to any Series of Bonds, each person or entity, if any, designated as such by the Commission herein or in the Supplemental Indenture authorizing the issuance of such Bonds, and its successors and assigns and any other person or entity which may at any time be substituted for it pursuant thereto.

"Payment Date" shall mean, with respect to any Series of Bonds, each Interest Payment Date and Principal Payment Date.

"Permitted Investments" shall mean and include any of the following, if and to the extent the same are at the time legal for the investment of the Commission's money:

(a) Government Obligations and Government Certificates.

(b) Obligations issued or guaranteed by any of the following:

(i) Export-Import Bank of the United States;

(ii) Farmers Home Administration;

(iii) Federal Farm Credit System;

(iv) Federal Financing Bank;

(v) Federal Home Loan Bank System;

(vi) Federal Home Loan Mortgage Corporation;

(vii) Federal Housing Administration;

(viii) Federal National Mortgage Association;

(ix) Government National Mortgage Association;

(x) Private Export Funding Corporation

(xi) Resolution Funding Corporation;

(xii) Student Loan Marketing Association; and

(xiii) any other instrumentality or agency of the United States.

(c) Prerefunded municipal obligations rated at the time of purchase of such investment in the highest rating category by the Rating Agencies then rating the Bonds and meeting the following conditions:

(i) such obligations are: (A) not subject to redemption prior to maturity or the Trustee has been given irrevocable instructions concerning their calling and redemption, and (B) the issuer of such obligations has covenanted not to redeem such obligations other than as set forth in such instructions;

(ii) such obligations are secured by Government Obligations or Government Certificates that may be applied only to interest, principal and premium payments of such obligations;

(iii) the principal of and interest on such Government Obligations or Government Certificates (plus any cash in the escrow fund with respect to such prerefunded obligations) are sufficient to meet the liabilities of the obligations;

(iv) the Government Obligations or Government Certificates serving as security for the obligations have been irrevocably deposited with and are held by an escrow agent or trustee; and

(v) such Government Obligations or Government Certificates are not available to satisfy any other claims, including those against the trustee or escrow agent.

(d) Direct and general long-term obligations of any State of the United States of America or the District of Columbia (a "State") to the payment of which the full faith and credit of such State is pledged and that are rated at the time of purchase of the investment in either of the two highest rating categories by the Rating Agencies then rating the Bonds.

(e) Direct and general short-term obligations of any State to the payment of which the full faith and credit of such State is pledged and that are rated at the time of purchase of the investment in the highest rating category by the Rating Agencies then rating the Bonds.

(f) Interest-bearing demand or time deposits with, or banker's acceptances from, state banks or trust companies or national banking associations that are members of the Federal Deposit Insurance Corporation ("FDIC"). Such deposits must be at least one of the following: (i) continuously and fully insured by FDIC; (ii) if they have a maturity of one year or less, with or issued by banks that are rated in one of the two highest short term rating categories by the Rating Agencies then rating the Bonds; (iii) if they have a maturity longer than one year, with or issued by banks that are rated at the time of purchase of the investment in one of the two highest rating categories by the Rating Agencies then rating the Bonds; or (iv) fully secured by Government Obligations and Government Certificates. Such Government Obligations and Government Certificates must have a market value at all times at least equal to the principal amount of the deposits or interests. The Government Obligations and Government Certificates must be held by a third party (who shall not be the provider of the collateral), or by any Federal Reserve Bank or depositary, as custodian for the institution issuing the deposits or interests.

Such third party must have a perfected first lien in the Government Obligations and Government Certificates serving as collateral, and such collateral must be free from all other third party liens.

(g) Long-term or medium-term corporate debt guaranteed by any corporation that is rated at the time of purchase of the investment in one of the two highest rating categories by the Rating Agencies then rating the Bonds.

(h) Repurchase agreements longer than one year with financial institutions such as banks or trust companies organized under State or federal law, insurance companies, or government bond dealers reporting to, trading with, and recognized as a primary dealer by, the Federal Reserve Bank of New York and a member of the Security Investors Protection Corporation, or with a dealer or parent holding company that is rated at the time of purchase of the investment "AA" or better by the Rating Agencies then rating the Bonds. The repurchase agreement must be in respect of Government Obligations and Government Certificates or obligations described in paragraph (b) of this definition.

(i) Prime commercial paper of a corporation, finance company or banking institution rated at the time of purchase of the investment in the highest short-term rating category by the Rating Agencies then rating the Bonds.

(j) State or public agency or municipality obligations rated at the time of purchase of the investment in the highest credit rating category by the Rating Agencies then rating the Bonds.

(k) Shares of a diversified open-end management investment company, as defined in the Investment Company Act of 1940, as amended, or shares in a regulated investment company, as defined in Section 851(a) of the Code, that is a money market fund that has been rated in the highest rating category by the Rating Agencies then rating the Bonds.

(l) Money market accounts of any state or federal bank, or bank whose holding parent company is, rated in the top two short-term or long-term rating categories by the Rating Agencies then rating the Bonds.

(m) Investment agreements the issuer of which is rated at the time of purchase of the investment "AA" or better by the Rating Agencies then rating the Bonds.

(n) The City and County of San Francisco Treasurer's Investment Pool.

(o) Any other debt or fixed income security specified by an Authorized Commission Representative and rated at the time of purchase of the investment in the highest short-term rating category or one of the three highest long-term rating categories by the Rating Agencies then rating the Bonds.

"Port Area" shall mean all real and personal property, which are owned, controlled or operated by the Commission or over which the Commission has management, supervision or control, or which the Commission deems to be of benefit to the Port Area.

"Port Consultant" shall mean a firm or firms of national recognition with knowledge and experience in the field of advising the management of ports as to the planning, development, operation and management of ports and port facilities, selected and employed by the Commission from time to time.

"Principal Amount" shall mean, as of any date of calculation, (a) with respect to any Capital Appreciation Bond, the Accreted Value thereof, and (b) with respect to any other Bonds, the stated principal amount thereof.

"Principal Payment Date" shall mean, with respect to any Series of Bonds, each date specified herein or in the Supplemental Indenture authorizing the issuance thereof for the payment of the Principal Amount of such Bonds either at maturity or upon prior redemption from mandatory sinking fund payments.

"Project Funds" shall mean, collectively, the Project Funds established pursuant to Section 4.01 hereof and any Supplemental Indenture.

"Qualified Self-Insurance" shall mean either (a) a program of self-insurance, or (b) insurance maintained with a fund, company or association in which the Commission shall have a material interest and of which the Commission shall have control, either singly or with others, and in each case which meets the requirements of Section 6.05 hereof.

"Rating Agency" shall mean Moody's, Standard & Poor's and Fitch and any other rating agency designated by the Commission.

"Record Date" shall mean, with respect to any Series of Bonds, each date, if any, specified herein or in the Supplemental Indenture authorizing the issuance thereof as a Record Date.

"Refundable Credit" shall mean, with respect to a Series of Bonds that are Build America Bonds, the amounts which are payable by the Federal government under Section 6431 of the Code, which the Commission has elected to receive under Section 54AA(g)(1) of the Code.

"Registrar" shall mean, with respect to any Series of Bonds, each person or entity, if any, designated as such by the Commission herein or in the Supplemental Indenture authorizing the issuance of such Bonds, and its successors and assigns and any other person or entity which may at any time be substituted for it pursuant thereto.

"Repayment Obligation" shall mean an obligation under a written agreement between the Commission and a Credit Provider to reimburse the Credit Provider for amounts paid under or pursuant to a Credit Facility for the payment of the Principal Amount or purchase price of and/or interest on any Bonds.

"Reserve Fund" shall mean the Reserve Fund established pursuant to Section 5.04 hereof.

"Reserve Requirement" means, as to each Series of Bonds and as of any calculation date, the amount provided in the Supplemental Indenture providing for the issuance of such Series of Bonds.

"Responsible Officer" when used with respect to the Trustee shall mean any corporate trust officer to whom such matter is referred because of his or her knowledge of and familiarity with the particular subject.

"Revenue" shall mean all revenue earned by the Commission from or with respect to its management, supervision, operation and control of the Port Area, as determined in accordance with generally accepted accounting principles. Revenues shall include IFD Revenues to the extent permitted by law and designated as Revenues in a Supplemental Indenture. Revenue shall not include: (a) Special Facility Revenue and any interest income or profit realized from the investment thereof, unless such receipts are designated as Revenue by the Commission, (b) grants-in-aid, donations and/or bequests, which by their terms would be restricted to uses inconsistent with the purposes provided hereunder or (c) IFD Revenues unless designated by the Commission as Revenues in a Supplemental Indenture.

"Revenue Stabilization Fund" means the amounts designated by the Commission on deposit in one or more funds of the Commission (including amounts designated in one or more existing funds or accounts of the Commission) which amounts are generally available to pay debt service on the Bonds and/or Operation and Maintenance Expenses.

"Series of Bonds" or "Bonds of a Series" or "Series" shall mean a series of Bonds issued pursuant to this Indenture.

"Special Facility" shall mean any existing or planned facility, structure, equipment or other property, real or personal, which is at the Port Area or a part of any facility or structure at the Port Area and which is designated as a Special Facility pursuant to Section 2.14 hereof.

"Special Facility Bonds" shall mean any revenue bonds, notes, bond anticipation notes, commercial paper or other evidences of indebtedness for borrowed money issued by, or certificates of participation executed on behalf of, the Commission to finance a Special Facility, the principal, premium, if any, and interest with respect to which are payable from and secured by the Special Facility Revenue derived from such Special Facility, and not from or by Net Revenue.

"Special Facility Revenue" shall mean the revenue earned by the Commission from or with respect to a Special Facility and which is designated as such by the Commission, including but not limited to contractual payments to the Commission under a loan agreement, lease agreement or other written agreement with respect to the Special Facility by and between the Commission and the person, firm, corporation or other entity, either public or private, as shall operate, occupy or otherwise use the Special Facility.

"Standard & Poor's" shall mean Standard & Poor's Rating Services, a corporation organized and existing under the laws of the State of New York, its successors and assigns, except that if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency for any reason, the term "Standard & Poor's" shall be deemed to refer to any other nationally recognized securities rating agency selected by the Commission.

"Subordinate Bonds" shall mean any evidences of indebtedness for borrowed money issued from time to time by the Commission pursuant to Section 2.10 hereof, including but not limited to, bonds, notes, bond anticipation notes, commercial paper, lease or installment purchase agreements or certificates of participation therein.

"Supplemental Indenture" shall mean an indenture supplementing or amending the provisions of the Indenture which is adopted by the Commission pursuant to Article IX hereof.

"Swap Counter Party" shall mean a member of the International Swap Dealers Association rated in one of the three top rating categories by both Rating Agencies.

"Swap Payments" shall mean as of each payment date specified in an Interest Rate Swap, the amount, if any, payable to the Swap Counter Party by the Trustee, on behalf of the Commission.

"Swap Receipts" shall mean as of each payment date specified in an Interest Rate Swap, the amount, if any, payable to the Trustee for the account of the Commission by the Swap Counter Party.

"Tax Certificate" shall mean a certificate executed by an Authorized Commission Representative on behalf of the Commission with respect to any Series of Bonds relating to the federal tax aspects of the use of the proceeds of such Bonds and other related matters.

"Treasurer" shall mean the Treasurer of the City, and any successor to his or her duties hereunder.

"Trustee" shall mean [Trustee], and any successor to its duties hereunder.

"Variable Rate Bonds" shall mean any Bonds the interest rate on which is not fixed to maturity as of the date of calculation.

Section 1.02. Rules of Construction. Unless the context clearly indicates to the contrary, the following rules shall apply to the construction of this Indenture:

(a) Any reference herein to the Commission or any officer thereof shall include any persons or entities succeeding to their functions, duties or responsibilities pursuant to or by operation of law or who are lawfully performing their functions.

(b) The use of the neuter, masculine or feminine gender is for convenience only and shall be deemed to mean and include the neuter, masculine and feminine gender.

(c) Words importing the singular number shall include the plural number and vice versa.

(d) All references herein to particular articles, sections or other subdivisions are references to articles, sections or other subdivisions of this Indenture.

(e) The headings and Table of Contents herein are solely for convenience of reference and shall not constitute a part of this Indenture nor shall they affect its meaning, construction or effect.

(f) All terms such as herein, hereunder and hereto shall refer to this Indenture, as amended or supplemented.

(g) All references herein to the time of day shall mean San Francisco, California time.

Section 1.03. Due Authorization. This Commission has reviewed all proceedings heretofore taken relative to the authorization of the Bonds and has found, as a result of such review, and does hereby find and determine, that the Commission has duly and regularly complied with all applicable provisions of law and is duly authorized by law to issue the Bonds in the manner and upon the terms provided in this Indenture and that all acts, conditions and things required by law to exist, happen and be performed precedent to and in connection with the issuance of the Bonds exist, have happened and have been performed in regular and due time, form and manner as required by law, and this Commission is now duly empowered to issue the Bonds.

ARTICLE II

TERMS OF BONDS

Section 2.01. Issuance. Bonds may be issued in one or more Series under and subject to the terms of this Indenture from time to time as the issuance thereof is authorized by the Commission and by Supplemental Indenture for any purposes of the Commission now or hereafter permitted by law. The maximum principal amount of Bonds which may be issued hereunder is not limited by this Indenture.

Section 2.02. Terms. The Bonds of each Series shall be authorized by a Supplemental Indenture which shall provide, among other things: (a) the authorized Principal Amount or Authorized Amount of such Bonds and the Series designation therefor; (b) the general purpose or purposes for which such Bonds are being issued, and the deposit and disbursement of the proceeds thereof, (c) the dated date or dates of and Principal Payment Dates for such Bonds, and the Principal Amounts maturing or subject to redemption on each Principal Payment Date or the means of determining such amounts; (d) the interest rate or rates on such Bonds and the Interest Payment Dates therefor, and whether such interest rate or rates shall be

fixed or variable, or a combination thereof, and, if necessary, the manner of determining such rate or rates; (e) the currency or currencies in which such Bonds shall be payable; (f) the authorized denominations of and manner of dating and numbering such Bonds; (g) the Record Date or Dates and the place or places of payment of the Principal Amount, redemption price, if any, purchase price, if any, of and interest on such Bonds; (h) the form or forms of such Bonds, which may include but shall not be limited to registered form and book-entry form, and the methods, if necessary, for the registration, transfer and exchange thereof, (i) the terms and conditions, if any, for the optional or mandatory redemption of such Bonds prior to maturity, including but not limited to the redemption date or dates, the redemption price or prices and any mandatory sinking fund payments with respect thereto; (j) the terms and conditions, if any, for the optional or mandatory tender of such Bonds for purchase prior to maturity, including but not limited to the tender date or dates and the purchase price or prices; (k) the authorization of and terms and conditions with respect to any Credit Facility for such Bonds; (l) the Authenticating Agent or Agents for such Bonds, if any, and the duties and obligations thereof, (m) the Paying Agent or Agents for such Bonds, if any, and the duties and obligations thereof, (n) the tender agent or agents for such Bonds, if any, and the duties and obligations thereof, (o) the remarketing agent or agents for such Bonds, if any, and the duties and obligations thereof; (p) the Registrar or Registrars for such Bonds, if any, and the duties and obligations thereof; and (q) any other provisions which the Commission deems necessary or desirable with respect to the authorization and issuance of such Bonds.

Section 2.03. Limited Obligation; Recitals on Bonds. (a) The Bonds shall be special, limited obligations of the Commission, and shall be payable as to Principal Amount, purchase price, if any, redemption premium, if any, and interest, out of the Net Revenue, and not out of any other funds or moneys of the Commission not pledged thereto, as further provided in Section 5.01 hereof. No Holder of the Bonds shall have the right to compel any exercise of the taxing power of the Commission, the City, the State of California or any political subdivision thereof to pay the Principal Amount or purchase price, if any, of or the redemption premium, if any, or interest on the Bonds. Each Bond shall bear a recital substantially as follows: "This Bond is not a lien, charge or liability, as to either Principal Amount or interest, against the State of California or any political subdivision thereof or against the Commission, the City or the Board of Supervisors of the City, or against the property or funds of any of the foregoing, except to the extent of the pledge of Net Revenue, as provided by the Indenture."

(b) Each of the Bonds shall bear a certification and recital that any and all acts, conditions and things required to exist, to happen and to be performed, precedent to and in the incurring of the indebtedness evidenced by that Bond, and in the issuing of said Bond, do exist, have happened and have been performed in due time, form and manner, as required by the Constitution and statutes of the State of California and the Charter, and that said Bond, together with all other indebtedness of the Commission pertaining to the Port Area, is within every debt and other limit prescribed by the Constitution and statutes of the State of California and said Charter. From and after the issuance of the Bonds of any Series, the findings and determinations of the Commission respecting that Series shall be conclusive evidence of the existence of the facts so found and determined in any action or proceeding in any court in which the validity of such Bonds is at issue.

Section 2.04. Execution and Authentication of Bonds. All of the Bonds shall be executed in the name and on behalf of the Commission, with the signature of its Executive Director and countersigned by _____. Such signatures may be printed, lithographed, engraved or otherwise reproduced, but at least one of such signatures shall be manually affixed to the Bonds (unless such Bonds shall have endorsed thereon a certificate of authentication, as hereinafter provided, in which case both signatures may be reproduced).

In case any such officer whose signature appears on the Bonds shall cease to be such officer before the Bonds so signed shall have been authenticated or delivered, such signature shall nevertheless be valid and sufficient for all purposes the same as if he or she had remained in office until the delivery of the Bonds, and such Bonds shall be issued and Outstanding hereunder and shall be as binding upon the Commission as though the person who signed such Bonds had been such official on the date borne by the Bonds and on the date of delivery.

The Commission may provide at any time prior to the issuance of any Series of Bonds that such Bonds shall bear a certificate of authentication executed by the Authenticating Agent. In the event the Commission shall require the authentication of any Bond issued under this Indenture, then there shall be included in the text of such Bonds a statement to the following effect: "This Bond shall not be entitled to any benefit under the Indenture, or become valid or obligatory for any purpose, until the certificate of authentication endorsed hereon shall have been manually signed by the Authenticating Agent." In the case of Bonds requiring authentication, only such Bonds as shall bear thereon a certificate of authentication in the form provided, executed by the Authenticating Agent, shall be or become valid or obligatory for any purpose or entitled to the benefits of this Indenture. Such certificate of the Authenticating Agent shall be conclusive evidence that the Bonds so authenticated have been duly authenticated and delivered hereunder and are entitled to the benefits of this Indenture.

Section 2.05. Exchange of Bonds. Bonds may be exchanged for an equal aggregate principal amount of Bonds of the same Series, interest rate and maturity date in authorized denominations upon presentation and surrender thereof to the Trustee or the Registrar, as the case may be, together with written instructions satisfactory to the Trustee or the Registrar, and duly executed, in the case of registered Bonds, by the Holder or the Holder's attorney duly authorized in writing.

Section 2.06. Transfer of Bonds. (a) The Commission shall appoint a Registrar or Registrars with respect to each Series of Bonds to act as Registrar of the Bonds. Each Registrar will keep or cause to be kept sufficient records for the registration, transfer and exchange of the Bonds of such Series, which shall at all times be open to inspection by the Commission; and, upon presentation for such purpose, each Registrar shall, under such reasonable regulations as it may prescribe, register, transfer or exchange, or cause to be registered, transferred or exchanged, on said records, the Bonds of such Series as herein provided.

(b) Any Bond may, in accordance with its terms, be transferred, upon the records required to be kept by the Registrar, by the person in whose name it is registered, in

person or by the Holder's attorney duly authorized in writing, upon surrender of such Bond for cancellation, accompanied by a written instrument of transfer in a form approved by the Registrar, duly executed. Whenever any Bond or Bonds shall be surrendered for transfer, the Commission shall execute and the Authenticating Agent shall authenticate and deliver in the name of the transferee a new fully registered Bond or Bonds in authorized denominations of the same Series, interest rate and maturity date and for a like aggregate principal amount.

(c) As to any Bond, the person in whose name such Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of Principal Amount of, premium, if any, and interest on any Bond shall be made, as provided herein or in the applicable Supplemental Indenture, only to or upon the written order of the Holder thereof. Such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the amount so paid.

Section 2.07. Provisions with Respect to Transfers and Exchanges. (a) All Bonds surrendered for exchange or transfer shall forthwith be cancelled by the Registrar.

(b) In connection with any such exchange or transfer of Bonds, the Holder requesting such exchange or transfer shall, as a condition precedent to the exercise of the privilege of making such exchange or transfer, remit to the Registrar an amount sufficient to pay any tax or other governmental charge required to be paid with respect to such exchange or transfer.

(c) The Supplemental Indenture authorizing the issuance of a Series of Bonds may provide such additional provisions or limitations on the exchange or transfer of such Bonds prior to an Interest Payment Date, redemption date or otherwise as the Commission shall deem appropriate.

Section 2.08. Mutilated, Destroyed, Lost and Stolen Bonds. If (a) any mutilated Bond is surrendered to the Trustee or if the Commission, the Registrar, if any, and the Trustee receive evidence to their satisfaction of the destruction, loss or theft of any Bond, and (b) there is delivered to the Trustee such security or indemnity as may be required by them to hold the Commission, the Registrar, if any, and the Trustee harmless, then, in the absence of notice to the Commission, the Registrar, if any, or the Trustee that such Bond has been acquired by a bona fide purchaser and upon the Holder paying the reasonable expenses of the Commission, the Registrar, if any, and the Trustee, then the Commission, the Registrar, if any, and the Trustee shall cause to be executed and the Authenticating Agent, if any, shall authenticate and deliver, in exchange for such mutilated Bond or in lieu of and substitution for such destroyed, lost or stolen Bond, a new Bond of the same Series, interest rate and maturity date. If any such mutilated, destroyed, lost or stolen Bond has become or is about to become due and payable, then the Trustee and any Paying Agent may, in its discretion, pay such Bond when due instead of delivering a new Bond. Every mutilated Bond so surrendered to the Trustee shall be cancelled by it and redelivered to, or upon the order of, the Commission. Any Bond issued under the provisions of this Section 2.08 in lieu of any Bond alleged to be destroyed, lost or stolen shall be equally and proportionately entitled to the benefits of this Indenture and any Supplemental Indenture authorizing the issuance thereof with all other Bonds of the same Series secured

thereby. Neither the Commission nor the Trustee shall be required to treat both the original Bond and any substitute Bond as being Outstanding for the purpose of determining the Principal Amount of Bonds which may be issued hereunder or for the purpose of determining any percentage of Bonds Outstanding hereunder, but both the original and substitute Bond shall be treated as one and the same.

Section 2.09. Conditions for Delivery of Bonds; Additional Bonds. (a) Whenever the Commission determines to issue any additional Series of Bonds under the terms of this Indenture, the Commission shall adopt a Supplemental Indenture providing for the issuance thereof.

Before the delivery of any Series of Bonds to the purchaser or purchasers thereof, the Commission shall deliver the following to the Trustee:

(i) A certified copy of the resolution or resolutions of the Commission authorizing the issuance of such Series of Bonds and the execution and delivery of a Supplemental Indenture in connection therewith.

(ii) Original, executed copies of this Indenture and any Supplemental Indenture providing for the issuance of such Series of Bonds and containing the terms and provisions thereof, including but not limited to, the items described in Section 2.02 hereof.

(iii) A certificate of an Authorized Commission Representative to the effect that the Commission is not then in default under the terms and provisions of this Indenture or any Supplemental Indenture.

(iv) The amounts to be deposited into the respective Funds and Accounts created hereunder or under the Supplemental Indenture providing for such Series of Bonds; which amounts shall include a deposit to the Reserve Fund or an account therein satisfying the Reserve Requirement as calculated upon issuance of such Series of Bonds.

(v) An Opinion of Bond Counsel to the effect that such Series of Bonds has been duly authorized in conformity with law, and such Bonds constitute valid and binding obligations of the Commission.

(vi) If the Series of Bonds to be issued are to be Special Facility Bonds, the opinion and certificate required pursuant to Section 2.14 hereof.

(vii) Written instructions executed by an Authorized Commission Representative directing the Trustee (or any other Person designated to act as Authenticating Agent) to authenticate the Bonds and/or to deliver the Bonds to one or more designated persons.

(viii) Such other documents as are required hereby or by the Supplemental Indenture.

(b) Except as set forth in paragraph (c) below, the Commission shall not issue any additional Series of Bonds unless the Trustee has also been provided with:

(i) a report of the Commission demonstrating that for the period from and including the first full Fiscal Year following the issuance of such Bonds during which no interest on such Bonds is expected to be paid from the proceeds thereof through and including the later of (A) the fifth full Fiscal Year following the issuance of such Bonds or (B) the third full Fiscal Year during which no interest on such Bonds is expected to be paid from the proceeds thereof, projected Net Revenue in each such Fiscal Year will be at least sufficient to satisfy the rate covenants set forth in subsection (a) of Section 6.02 hereof; and

(ii) In determining projected Net Revenue for purposes of paragraph (i) above, the Commission may take into account any reasonably anticipated changes in Revenue and Operation and Maintenance Expenses over such period, which assumed changes and the basis therefor shall be described in the calculations provided by the Commission. In determining Annual Debt Service for purposes of paragraph (i) above, (A) Bonds that will be paid or discharged immediately after the issuance of the Series of Bonds proposed to be issued from the proceeds thereof or other moneys shall be disregarded, and (B) Variable Rate Bonds, Amortized Bonds and Interest Rate Swaps (which are secured by Net Revenue on a parity with the Bonds and under which the Commission pays a variable rate of interest) shall be deemed to bear interest or to be payable during any period after the date of calculation at a fixed annual rate equal to the lower of: (i) of one hundred twenty-five percent (125%) of the average Index Rate during the twelve (12) calendar months immediately preceding the date on which such calculation is made or (ii) the maximum rate of interest payable under such Bonds or Interest Rate Swap. As provided under Section 5.09 hereof, the Commission may also take into account as a credit amounts expected to be on deposit in the Revenue Stabilization Fund on June 30 of each Fiscal Year; provided that the Commission shall maintain Coverage under Section 6.02 equal to at least 100% without regard to any credit for any such amounts on deposit in the Revenue Stabilization Fund.

In the event that the Commission proposes to assume any indebtedness for borrowed money in connection with assuming the management, supervision and control of any port facilities or other revenue-producing facilities, such indebtedness may constitute additional Bonds under this Indenture entitled to an equal pledge of and lien on Net Revenue as the Bonds provided that the requirements of this subsection (b) are satisfied with respect to the assumption of such indebtedness (with a credit for any revenue of the facilities to be assumed).

(c) The Commission may also issue Bonds for the purpose of refunding any Refunded Bonds, Bonds or Subordinate Bonds on or prior to maturity.

Section 2.10. Subordinate Bonds. Nothing in this Indenture shall prevent the Commission from issuing at any time while any of the Bonds issued hereunder are Outstanding Subordinate Bonds with a pledge of, lien on, and security interest in Net Revenue which are junior and subordinate to those of the Bonds, whether then issued or thereafter to be issued. The

principal and purchase price of and interest, redemption premium and reserve fund requirements on such Subordinate Bonds shall be payable from time to time out of Net Revenue only if all amounts then required to have been paid or deposited hereunder from Net Revenue with respect to Principal Amount, purchase price, redemption premium, interest and reserve fund requirements on the Bonds then Outstanding or thereafter to be Outstanding shall have been paid or deposited as required in this Indenture and any Supplemental Indenture.

Section 2.11. Temporary Bonds. (a) Until definitive Bonds are prepared, the Commission may execute and deliver, or, in the case of registered Bonds, upon request by the Commission, the Authenticating Agent shall authenticate and deliver, temporary Bonds which may be typewritten, printed or otherwise reproduced in lieu of definitive Bonds subject to the same provisions, limitations and conditions as definitive Bonds. The temporary Bonds shall be dated as provided herein or in the applicable Supplemental Indenture, shall be in such denomination or denominations and shall be numbered as the Commission shall determine, and shall be of substantially the same tenor as the definitive Bonds of such Series, but with such omissions, insertions and variations as the officers of the Commission executing the same may determine. The temporary Bonds shall only be issued in fully registered form, and may be issued in the form of a single Bond.

(b) Without unreasonable delay after the issuance of any temporary Bonds, the Commission shall cause the definitive Bonds to be prepared, executed and delivered. Any temporary Bonds issued shall be exchangeable for definitive Bonds of such Series upon surrender to the Registrar of any such temporary Bond or Bonds, and, upon such surrender, the Commission shall execute, and the Authenticating Agent shall authenticate and deliver, to the Holder of the temporary Bond or Bonds, in exchange therefor, a like principal amount of definitive Bonds of such Series in authorized denominations of the same interest rate and maturity date. Until so exchanged the temporary Bonds shall in all respects be entitled to the same benefits as definitive Bonds of such Series executed and delivered pursuant hereto.

(c) All temporary Bonds surrendered in exchange for a definitive Bond or Bonds shall forthwith be cancelled by the Trustee or the Registrar.

Section 2.12. Non-Presentment of Bonds. (a) If any Bond is not presented for payment when the Principal Amount thereof becomes due (whether at maturity or call for redemption or otherwise), all liability of the Commission to the Holder thereof for the payment of such Bond shall be completely discharged if funds sufficient to pay such Bond and the interest due thereon shall be held by the Trustee for the benefit of such Holder, and thereupon it shall be the duty of the Trustee to hold such funds subject to subsection (b) below, without liability for interest thereon, for the benefit of such Holder, who shall thereafter be restricted exclusively to such funds for any claim of whatever nature under this Indenture or on, or with respect to, such Bond.

(b) Notwithstanding any provisions of this Indenture to the contrary, any moneys deposited with the Trustee or any Paying Agent in trust for the payment of the Principal Amount of, or interest or premium on, any Bonds and remaining unclaimed for one (1) year after the same has become due and payable (whether at maturity or upon call for redemption or

otherwise), shall then be repaid to the Commission, and the Holders of such Bonds shall thereafter be entitled to look only to the Commission for repayment thereof, and all liability of the Trustee or any Paying Agent with respect to such moneys shall thereupon cease. Before the repayment of such moneys to the Commission, the Trustee or Paying Agent, as the case may be, shall send a written notice to the Holders of such Bonds at their last known addresses as shown on the records maintained by the Registrar. In the event of the repayment of any such moneys to the Commission, the Holders of the Bonds in respect of which such moneys were deposited shall thereafter be deemed to be unsecured creditors of the Commission for amounts equivalent to the respective amounts deposited for the payment of such Bonds and so repaid to the Commission (without interest thereon).

Section 2.13. Repayment Obligations and Interest Rate Swaps as Bonds. (a) If so provided in the applicable Supplemental Indenture and in the written agreement between the Commission and the Credit Provider, a Repayment Obligation (other than a Repayment Obligation with respect to a Credit Facility on deposit in the Reserve Fund) may be accorded the status of an obligation payable on a parity from Net Revenue with the Bonds solely for purposes of securing such Repayment Obligation under this Indenture. The rights of a Credit Provider under this Section 2.13(a) shall be in addition to any rights of subrogation which the Credit Provider may otherwise have or be granted under law or pursuant to any Supplemental Indenture.

(b) If so provided in the applicable Supplemental Indenture and in the written agreement memorializing an Interest Rate Swap between the Commission and a Swap Counter Party, a Swap Payment may be accorded the status of an obligation payable on a parity from Net Revenue with the Bonds solely for purposes of securing such obligation to make Swap Payments under this Indenture.

Section 2.14. Special Facilities and Special Facility Bonds. The Commission from time to time, subject to the terms and conditions of this Section 2.14 and all applicable laws, may (a) designate an existing or planned facility, structure, equipment or other property, real or personal, which is located within the Port Area or part of any facility or structure at the Port Area as a "Special Facility," (b) provide that revenue earned by the Commission from or with respect to such Special Facility shall constitute "Special Facility Revenue" and shall not be included as Revenue, and (c) issue Special Facility Bonds primarily for the purpose of acquiring, constructing, renovating or improving, or providing financing to a third party to acquire, construct, renovate or improve, such Special Facility. The Special Facility Bonds shall be payable as to principal, purchase price, if any, redemption premium, if any, and interest from and secured by the Special Facility Revenue with respect thereto, and not from or by Net Revenue. The Commission from time to time may refinance any such Special Facility Bonds with other Special Facility Bonds.

No Special Facility Bonds shall be issued by the Commission unless there shall have been filed with the Trustee (i) a certificate of the Commission to the effect that no Event of Default then exists under Article VII of this Indenture, (ii) an opinion of Bond Counsel to the effect that such Special Facility Bonds may lawfully be issued in accordance with the Charter

and all other applicable laws and (iii) a report of the Commission providing the following calculations:

(a) The estimated Special Facility Revenue with respect to the proposed Special Facility will be at least sufficient to pay the principal (either at maturity or by mandatory sinking fund redemptions) or purchase price of and interest on such Special Facility Bonds as and when the same shall become due, all costs of operating and maintaining such Special Facility not paid by a party other than the Commission, and all sinking fund, reserve fund and other payments required with respect to such Special Facility Bonds as and when the same shall become due; and

(b) (c) The estimated Net Revenue calculated without including the Special Facility Revenue and without including any operation and maintenance expenses of the Special Facility as Operation and Maintenance Expenses will be sufficient so that the Commission will be in compliance with Section 6.02(a) of this Indenture during each of the five full Fiscal Years immediately following the issuance of such Special Facility Bonds.

At such time as the Special Facility Bonds issued for a Special Facility, including Special Facility Bonds issued to refinance such Special Facility Bonds, are fully paid or otherwise discharged and no longer outstanding, the Special Facility Revenue with respect to such Special Facility may be included as Revenue as determined by the Commission in a Supplemental Indenture or certificate of an Authorized Commission Representative delivered to the Trustee.

ARTICLE III

REDEMPTION OF BONDS

Section 3.01. Right to Redeem. Bonds of a Series may be subject to redemption prior to maturity at such times, to the extent and in the manner provided herein and in any Supplemental Indenture authorizing the issuance thereof.

Section 3.02. Sinking Fund Redemption. Bonds of a Series may be subject to mandatory sinking fund redemption and shall be redeemed at such times, to the extent and in the manner provided herein and in any Supplemental Indenture authorizing the issuance thereof.

Section 3.03. Notice of Redemption. (a) If less than all Bonds of a Series are to be redeemed, and subject to the provisions of subsection (b) hereof, the Bonds to be redeemed shall be identified by reference to the Series designation, date of issue, serial numbers and maturity dates. Each notice of redemption shall specify: (i) the date of such notice and the date fixed for redemption, (ii) the Principal Amount of Bonds or portions thereof to be redeemed, (iii) the applicable redemption price, (iv) the place or places of payment, (v) that payment of the Principal Amount and premium, if any, shall be made upon presentation and surrender to the Trustee or Paying Agent, as applicable, of the Bonds to be redeemed, unless provided otherwise herein or in the applicable Supplemental Indenture, (vi) that interest accrued to the date fixed for redemption shall be paid as specified in such notice, (vii) that on and after said date interest on

Bonds called for redemption shall cease to accrue, and (viii) the designation, including Series, and the CUSIP and serial numbers, if any, of the Bonds to be redeemed and, if less than the face amount of any such Bond is to be redeemed, the Principal Amount to be redeemed. Notice of redemption of any Bonds shall be mailed at the times and in the manner set forth in subsection of this Section 3.03.

(b) Except as may otherwise be provided herein or in any Supplemental Indenture authorizing the issuance of the Bonds to be redeemed, any notice of redemption shall be sent by the Trustee not less than 30 nor more than 60 days prior to the date set for redemption by first class mail (i) with respect to each Bond to be redeemed, to the Holder of such Bond at his or her address as it appears on the records maintained by the Registrar, (ii) to all organizations registered with the Securities and Exchange Commission as securities depositories, and (iii) to at least two information services of national recognition which disseminate redemption information with respect to municipal securities. In preparing such notice, the Trustee shall take into account, to the extent applicable, the prevailing municipal securities industry standards and any regulatory statement of any federal or state administrative body having jurisdiction over the Commission or the municipal securities industry. Failure to give any notice specified in (i), (ii) or (iii), or any defect therein, shall not affect the validity of any proceedings for the redemption of any of the Bonds.

(c) Notice of redemption shall be given by the Trustee for and on behalf of the Commission, at the written request of the Commission (which request shall be given to the Trustee at least 45 days prior to the date fixed for redemption, unless a shorter period of notice is consented to by the Trustee). The Commission shall deposit with, or otherwise make available to, the Trustee the moneys required for payment of the redemption price of all Bonds then to be called for redemption at least one Business Day before the date fixed for such redemption. Any notice of redemption may be cancelled and annulled if for any reason funds are not available on the date fixed for redemption for the payment in full of the Bonds then called for redemption, and such cancellation shall not constitute an Event of Default hereunder.

Section 3.04. Selection of Bonds to be Redeemed. Except as otherwise provided herein or in any Supplemental Indenture authorizing the issuance thereof: (a) if less than all Bonds of a Series are to be redeemed, the maturities to be redeemed or the method of their selection shall be determined by the Commission, and (b) if less than all such Bonds of a single maturity are to be redeemed, such Bonds to be redeemed shall be selected by lot in such manner as the Trustee shall determine.

Section 3.05. Partial Redemption of Bonds. Upon surrender of any Bond redeemed in part only, the Commission shall execute, the Authenticating Agent shall authenticate and the Trustee shall deliver to the Holder thereof, at the expense of the Commission, a new Bond or Bonds, of the same Series, interest rate and maturity date, of authorized denominations in an aggregate principal amount equal to the unredeemed portion of the Bond surrendered.

Section 3.06. Effect of Redemption. Notice of redemption having been duly given as provided herein and moneys for payment of the redemption price being held by the

Trustee, the Bonds to be redeemed shall, on the date designated in such notice, become due and payable at the redemption price specified in such notice, and from and after the date designated interest on the Bonds to be redeemed shall cease to accrue, and the Holders of such Bonds shall have no rights in respect thereto, except to receive payment of the redemption price thereof. Upon surrender for payment of any Bonds to be redeemed, such Bonds shall be paid by the Trustee or the Paying Agent, as the case may be, at the applicable redemption price.

Section 3.07. Disposition of Redeemed Bonds. All Bonds redeemed pursuant to the provisions of this Article III shall be delivered to and cancelled and destroyed by the Trustee, which shall thereafter deliver to the Commission a certificate stating that such Bonds have been cancelled and destroyed, and no Bonds shall be issued in place thereof.

ARTICLE IV

PROJECT FUNDS AND DELIVERY COSTS FUND

Section 4.01. Project Funds and Delivery Costs Funds. The Commission is hereby authorized to create a Project Fund and/or Delivery Costs Fund with respect to each Series of Bonds. Such Funds shall be held as separate funds and shall be maintained and accounted for by the Trustee, and the moneys in each of said Funds shall be used for the purposes for which the Series of Bonds to which it relates are authorized to be issued, including but not limited to Delivery Costs therefor.

ARTICLE V

REVENUE AND FUNDS

Section 5.01. Revenue, Pledge of Net Revenue; Trust Estate. The Bonds shall be payable as to Principal Amount, purchase price, if any, premium, if any, and interest exclusively from, and shall be secured by a pledge of, first lien on and security interest in the Net Revenue. The Net Revenue shall constitute a trust fund for the security and payment of the Principal Amount of, purchase price, if any, premium, if any, and interest on, the Bonds. The Commission hereby grants a first lien on and security interest in, assigns, transfers, pledges and grants and conveys to the Trustee and its successors and assigns forever, for the benefit of the Bondholders, the following property:

(a) amounts on deposit from time to time in the Funds and Accounts created pursuant to this Indenture, including the earnings thereon, subject to the provisions of this Indenture and any Supplemental Indenture permitting the application thereof for the purposes and on the terms and conditions set forth herein; provided, however, that there expressly is excluded from any pledge, assignment, lien or security interest created by this Indenture, Revenue appropriated, transferred, deposited, expended or used for the payment of Operation and Maintenance Expenses;

(b) amounts constituting Net Revenue; and

(c) any and all other property of any kind from time to time conveyed, pledged, assigned or transferred, as and for additional security hereunder for the Bonds, in favor of the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof.

The pledge of the Net Revenue and other moneys and property herein shall be irrevocable until all of the Bonds have been paid and retired. Such pledge shall be valid and binding from and after the date hereof and all Net Revenue shall immediately be subject to the lien of such pledge as and when received by the Commission, without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Commission.

All Bonds issued hereunder and at any time Outstanding shall be equally and ratably secured with all other Outstanding Bonds, with the same right, lien, preference and priority with respect to Net Revenue, without preference, priority or distinction on account of the date or dates or the actual time or times of the issuance or maturity of the Bonds or otherwise. All Bonds of a particular Series shall in all respects be equally and ratably secured and shall have the same right, lien and preference hereunder established for the benefit of such Series of Bonds including, without limitation, rights in any related Project Fund and/or Delivery Costs Fund, the Debt Service Fund or the Reserve Fund. Notwithstanding the foregoing, amounts drawn under a Credit Facility with respect to particular Bonds and all other amounts held in Funds or Accounts established with respect to particular Bonds pursuant to the provisions hereof and of any Supplemental Indenture shall be applied solely to make payments on such Bonds.

Section 5.02. Creation of Funds and Accounts.

(a) The Enterprise Fund has heretofore been created and shall be continued and held by the Treasurer.

(b) There is hereby created a Debt Service Fund and a Reserve Fund to be held by the Trustee in trust for the benefit of the Bondholders.

(c) The Commission may create such other Funds or Accounts for the allocation and application of Revenue or other moneys as it shall deem necessary or desirable.

Section 5.03. Debt Service Fund. The Commission shall establish with the Trustee a separate account or accounts in the Debt Service Fund with respect to any or all of the Bonds of one or more Series. Moneys in the Debt Service Fund and the accounts therein shall be held in trust by the Trustee and applied to pay Principal Amount and purchase price of and interest and redemption premium on such Bonds, in the amounts, at the times and in the manner set forth herein and in the Supplemental Indentures with respect thereto; provided, however, that each Supplemental Indenture shall require to the extent practicable that amounts be accumulated in the applicable accounts in the Debt Service Fund so that moneys sufficient to make any regularly scheduled payment of Principal Amount of or interest on the Bonds are on deposit therein at least five (5) Business Days prior thereto. Moneys in the accounts in the Debt Service

Fund may also be applied to pay or reimburse a Credit Provider for Repayment Obligations to the extent provided herein or in the Supplemental Indentures with respect thereto.

If and to the extent provided for in any Supplemental Indenture authorizing the issuance of a Series of Bonds, Swap Payments may be paid directly out of, and Swap Receipts paid directly into, the account or accounts in the Debt Service Fund established with respect to such Series of Bonds.

Section 5.04. Reserve Fund. The Reserve Fund shall be funded in an amount at least equal to the Reserve Requirement; provided, however, that the Commission may by Supplemental Indenture establish a separate Account or Accounts in the Reserve Fund with respect to any or all of the Bonds of one or more Series. Moneys in the Reserve Fund and the accounts therein shall be held in trust by the Trustee for the benefit and security of the Holders of the Bonds to which such accounts are pledged, and shall not be available to pay or secure the payment of any other Bonds. Each account in the Reserve Fund shall be funded and replenished in the amounts, at the times and in the manner provided herein or in the Supplemental Indentures with respect thereto. Moneys in the respective Accounts in the Reserve Fund shall be applied to pay and secure the payment of such Bonds as provided herein or in the Supplemental Indenture with respect thereto. Moneys in an Account in the Reserve Fund may also be applied to pay or reimburse a Credit Provider for Repayment Obligations to the extent provided herein or in the Supplemental Indenture with respect thereto.

(i) The Reserve Requirement (or any portion thereof) may be provided by one or more policies of municipal bond insurance or surety bonds issued by a municipal bond insurer or by a letter of credit issued by a bank if the obligations insured by such insurer or issued by such bank, as the case may be, initially have ratings at the time of issuance of such policy or surety bond or letter of credit in one of the two highest rating categories of the Rating Agencies then rating the Bonds.

Section 5.05. Application of Revenue. All Revenue as received shall be set aside and deposited by the Treasurer in the Enterprise Fund. Moneys in the Enterprise Fund shall be applied by the Treasurer for the following purposes in the following amounts and order of priority, each priority to be fully satisfied before the next priority:

(a) Operation and Maintenance Expenses. An amount equal to Operation and Maintenance Expenses as they become due and payable shall be transferred and applied for such purposes. All transfers for payment of Operation and Maintenance Expenses pursuant to this paragraph (a) shall be made in accordance with Section 6.09 hereof.

Moneys applied to pay Operation and Maintenance Expenses shall not be pledged or applied to pay or secure the payment of the Bonds.

(b) Debt Service Fund Transfer. To the Trustee for deposit in the Debt Service Fund shall be transferred such amount as shall be necessary:

(i) to make all payments and deposits required to be made into the Debt Service Fund and the Reserve Fund and the accounts therein in the amounts and at the times required hereby and by the Supplemental Indentures with respect to the Bonds; and

(ii) to make all payments and deposits required to be made into any funds and accounts created to pay or secure the payment of the Principal Amount or purchase price of or interest or redemption premium on any Subordinate Bonds in the amounts and at the times required by the resolutions and other agreements authorizing the issuance and providing the terms and conditions thereof.

(c) General Purposes. Any amounts remaining after the applications pursuant to paragraphs (a) and (b) above shall be used for any lawful purpose of the Commission and in accordance with all relevant provisions of the Charter.

(d) Deficiencies in Funds and Accounts. In the event that Revenue in the Enterprise Fund together with other available moneys are insufficient to make the required payments and deposits pursuant to paragraph (b)(i) of Section 5.05 hereof, after having made the payments and deposits required pursuant to paragraph (b) of Section 5.05 hereof, the Treasurer shall allocate available Net Revenue to make all payments or deposits then required, first, with respect to interest on Bonds; second, with respect to Principal Amount, redemption price or purchase price of Bonds; and third, with respect to any reserve requirements for Bonds. Available Net Revenue shall be allocated within each order of priority, to the extent necessary, on a pro rata basis in proportion to the respective amounts of payments or deposits required to be made with respect to Principal Amount or purchase price of, interest on or reserve requirements for Bonds, as the case may be.

Section 5.06. Investment of Moneys. (a) Moneys in all Funds and Accounts held by the Trustee shall be invested as soon as practicable upon receipt in Permitted Investments as directed in writing by an Authorized Commission Representative; provided, that (i) the maturity date or the date on which such Permitted Investments may be redeemed at the option of the holder thereof shall coincide as nearly as practicable with (but in no event shall be later than) the date or dates on which moneys in the Funds or Accounts for which the investments were made will be required for the purposes thereof, and (ii) in the absence of direction from an Authorized Commission Representative, the Trustee shall invest moneys in the Permitted Investments described in clause [(l)] of the definition thereof. Anything herein to the contrary notwithstanding, moneys in all Funds and Accounts held by the Treasurer shall be invested in Permitted Investments in accordance with the policies and procedures of the Treasurer in effect from time to time.

(b) Investment of amounts in any Fund or Account shall be made in the name of such Fund or Account.

(c) Amounts credited to a Fund or Account may be invested, together with amounts credited to one or more other Funds or Accounts, in the same Permitted Investment; provided, however, that (i) each such investment complies in all respects with the provisions of

subsection (a) of this Section 5.07 as they apply to each Fund or Account for which the joint investment is made, and (ii) separate records are maintained for each Fund and Account and such investments are accurately reflected therein.

(d) The Trustee may make any investment permitted by this Section 5.07 through or with its own commercial banking or investment departments, unless otherwise directed by the Commission.

(e) Except as otherwise specifically provided herein, in computing the amount in any Fund or Account, Permitted Investments purchased as an investment of moneys therein shall be valued at the current market value thereof or at the redemption price thereof, if then redeemable at the option of the holder, in either event inclusive of accrued interest.

(f) Any transfer to or deposit in any Fund or Account required by this Indenture may be satisfied by transferring or depositing an investment with a market value equal to the required transfer or deposit in lieu of transferring or depositing cash.

(g) Earnings in any Fund or Account shall remain on deposit in such Fund or Account unless otherwise provided herein or in a written direction of an Authorized Commission Representative.

Section 5.07. Limited Liability of Trustee for Investments. The Trustee shall not be liable for making any investment authorized by the provisions of this Article V in the manner provided in this Article V or for any loss resulting from any such investment so made, except for its own negligence, willful misconduct or self-dealing constituting a breach of trust under applicable law.

Section 5.08. Purchase of Bonds. (a) The Commission, or the Trustee upon the written direction of the Commission, from surplus Net Revenue or other available funds, may purchase Bonds of any Series at public or private sale (including but not limited to purchase in-lieu of redemption, as and when and at such prices as the Commission may in its discretion determine to be prudent.)

(b) If authorized hereby or by the relevant Supplemental Indenture, the Trustee shall apply any or all amounts deposited in an account in the Debt Service Fund with respect to mandatory sinking fund payments to the purchase of term Bonds, at such prices and in accordance with such terms as may be prescribed hereby or by said Supplemental Indenture.

(c) Absent written directions to the contrary from an Authorized Commission Representative, all Bonds so purchased shall be delivered to and cancelled and destroyed by the Trustee, which shall thereafter deliver to the Commission a certificate stating that such Bonds have been cancelled and destroyed, and no Bonds shall be issued in place thereof.

Section 5.09. Revenue Stabilization Fund. From time to time, the Commission may deposit available amounts into the Revenue Stabilization Fund. Amounts on deposit in the Revenue Stabilization Fund on June 30 of any Fiscal Year shall be a credit to the calculation of the amount of Net Revenues in such Fiscal Year for the purposes of Sections 2.09(b) and 6.02

hereof; provided that the Commission shall project or maintain, as applicable, Coverage under Sections 2.09(b) and 6.02 equal to at least 100% without regard to any credit for such amounts on deposit in the Revenue Stabilization Fund.

ARTICLE VI

GENERAL COVENANTS OF THE COMMISSION

Section 6.01. Payment of Principal and Interest; Negative Pledge. (a) The Commission covenants and agrees that it promptly will pay or cause to be paid the Principal Amount and purchase price of, premium, if any, and interest on each Bond issued hereunder at the place, on the dates and in the manner provided herein, in any applicable Supplemental Indenture and in said Bond according to the terms thereof but solely from the sources pledged to such payment or from such other sources or revenue as may lawfully be used for such payment.

(b) The Commission covenants and agrees that it will not create any pledge of, lien on, security interest in or encumbrance upon, or permit the creation of any pledge of, lien on, security interest in or encumbrance upon, Revenue or Net Revenue except as provided herein for the benefit of the Bonds or except for a pledge, lien, security interest or encumbrance subordinate to the pledge, lien and security interest provided herein for the benefit of the Bonds.

(c) The Commission covenants that it shall not issue, or cooperate with the issuance of, any bonds or other obligations secured by Net Revenue prior to the Bonds so long as any Bonds remain Outstanding hereunder.

Section 6.02. Covenant to Maintain Net Revenue Coverage. (a) The Commission covenants and agrees that it will manage its business operations and establish and at all times maintain rentals, rates, fees and charges for the use of the Port Area and for services rendered by the Commission in connection with the Port Area so that Net Revenue in each Fiscal Year as a percentage of Annual Debt Service for such Fiscal Year ("Coverage") will be at least equal to 130%.

(b) The Commission covenants that if Net Revenue in any Fiscal Year is less than the amount specified in subsection (a) of this Section 6.02, the Commission will retain and direct a Port Consultant to make recommendations as to the revision of the Commission's business operations and/or its schedule of rentals, rates, fees and charges for the use of the Port Area and for services rendered by the Commission in connection with the Port Area and shall take such recommendations into account for future budgets and management.

(c) In the event that Net Revenue for any Fiscal Year is less than the amount specified in subsection (a) of this Section 6.02, but the Commission promptly has taken prior to or during the next succeeding Fiscal Year all reasonable measures to revise its business operations and/or its schedule of rentals, rates, fees and charges as required by subsection (b) of this Section 6.02, such deficiency in Net Revenue shall not constitute an Event of Default under the provisions of Section 7.01(d) hereof. Nevertheless, if after taking the measures required by subsection (b) of this Section 6.02 to revise its business operations and/or its schedule of rentals,

rates, fees and charges, Net Revenue in such next succeeding Fiscal Year (as evidenced by the audited financial statements of the Commission for such Fiscal Year) is less than the amount specified in subsection (a) of this Section 6.02, such deficiency in Net Revenue shall constitute an Event of Default under the provisions of Section 7.01(e) hereof.

(d) In determining Net Revenues pursuant to paragraph (a) above, the Commission may take into account as a credit the amount on deposit in the Revenue Stabilization Fund on June 30 of each Fiscal Year; provided that the Commission shall maintain Coverage equal to at least 100% without regard to any credit for any such amounts or deposits in the Revenue Stabilization Fund.

Section 6.03. Operation and Maintenance of Port Area. The Commission covenants that it will operate and maintain the Port Area as a revenue producing enterprise in accordance with law, including but not limited to the Charter and the Act. The Commission will make such repairs to the Port Area as shall be required to enable it to perform its covenants contained herein, including, without limitation, the covenants contained in Section 6.02 hereof.

The Commission will, from time to time, duly pay and discharge, or cause to be paid and discharged, any taxes, assessments or other governmental charges lawfully imposed upon the Port Area or upon any part thereof, or upon the revenue from the operation thereof, when the same shall become due, as well as any lawful claim for labor, materials or supplies which, if unpaid, might by law become a lien or charge upon the Port Area or such revenue, or which might materially impair the security of the Bonds. Notwithstanding the foregoing, the Commission need not pay or discharge any tax, assessment or other governmental charge, or claim for labor, materials or supplies, if and so long as the Commission shall contest the validity or application thereof in good faith.

The Commission will continuously operate the Port Area so that all lawful orders of any governmental agency or authority having jurisdiction in the premises shall be complied with, but the Commission shall not be required to comply with any such orders so long as the validity or application thereof shall be contested in good faith.

Section 6.04. Maintenance of Powers; Retention of Assets. (a) The Commission covenants that it will use its reasonable efforts to maintain the powers, functions, duties and obligations now reposed in it pursuant to law, and will not at any time voluntarily do, suffer or permit any act or thing the effect of which would be to materially, adversely impact the payment of the Bonds or any other obligation secured hereby or the performance or observance of any of the covenants herein contained.

(b) The Commission covenants that it will not dispose of assets necessary to operate the Port Area in the manner and at the levels of activity required to enable it to perform its covenants contained herein, including, without limitation, the covenants contained in Section 6.02 hereof.

(c) The Commission covenants that it shall not apply Revenue or any other revenue of the Commission generated at or with respect to the Port Area for other than Port Area purposes as provided in the Charter.

Section 6.05. Insurance. Subject in each case to the condition that insurance is obtainable at reasonable rates from responsible insurers and upon reasonable terms and conditions:

(a) The Commission shall procure or provide and maintain, at all times while any of the Bonds shall be outstanding, insurance or Qualified Self-Insurance on the Port Area against such risks as are usually insured by other ports which are similar in their operations to the Port Area. Such insurance or Qualified Self-Insurance shall be in an adequate amount as to the risk insured against as determined by the Commission. The Commission need not carry insurance or Qualified Self-Insurance against losses caused by land movement, including but not limited to seismic activity.

(b) Any Qualified Self-Insurance shall be established in accordance with applicable law; shall include reserves or reinsurance in amounts which the Commission determines to be adequate to protect against risks assumed under such Qualified Self-Insurance, including without limitation any potential retained liability in the event of the termination of such Qualified Self-Insurance.

(c) The proceeds of any material claim on insurance shall be applied solely for Port Area purposes. Further, the proceeds of any casualty insurance shall, within a reasonable period of time, be applied to (1) replace the Port Area facilities which were damaged or destroyed, (2) provide additional revenue-producing Port Area facilities, (3) redeem Bonds or (4) create an escrow fund pledged to pay specified Bonds and thereby cause such Bonds to be deemed to be paid as provided in Article X hereof.

Section 6.06. Financial Records and Statements. The Commission shall maintain proper books and records in which full and correct entries shall be made in accordance with generally accepted accounting principles, of all its business and affairs. The Commission shall have an annual audit made by an Independent Auditor and shall within 210 days after the end of each of its Fiscal Years furnish to the Trustee copies of the audited financial statements of the Commission for such Fiscal Year.

All such books and records pertaining to the Port Area shall be open upon reasonable notice during regular business hours to the Trustee or the representatives thereof duly authorized in writing.

Section 6.07. Tax Covenants. Notwithstanding any other provision of this Indenture, absent an opinion of Bond Counsel that the exclusion from gross income of interest on the Bonds will not be adversely affected for federal income tax purposes, the Commission covenants to comply with all applicable requirements of the Code necessary to preserve such exclusion from gross income and specifically covenants, without limiting the generality of the foregoing, as follows:

(a) Private Activity. The Commission will not take or omit to take any action or make any use of the proceeds of the Bonds or of any other moneys or property which would cause the Bonds to be "private activity bonds" within the meaning of Section 141 of the Code.

(b) Arbitrage. The Commission will make no use of the proceeds of the Bonds or of any other amounts or property, regardless of the source, or take or omit to take any action which would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code.

(c) Federal Guarantee. The Commission will make no use of the proceeds of the Bonds or take or omit to take any action that would cause the Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

(d) Information Reporting. The Commission will take or cause to be taken all necessary action to comply with the informational reporting requirement of Section 149(e) of the Code.

(e) Miscellaneous. The Commission will take no action inconsistent with its expectations stated in any Tax Certificate executed with respect to the Bonds and will comply with the covenants and requirements stated therein and incorporated by reference herein.

(f) Taxable Bonds and Build America Bonds. Notwithstanding the foregoing, the Commission may issue Series of Bonds that are intentionally not exempt from taxation and may issue Series of Bonds that are Build America Bonds.

Section 6.08. Eminent Domain. If a Port Area facility or Port Area facilities are taken by eminent domain proceedings or conveyance in lieu thereof, the Commission shall create within the Port Area Enterprise Fund a special account and credit the net proceeds received as a result of such taking or conveyance to such account and shall within a reasonable period of time, not to exceed three years after the receipt of such amounts, use such proceeds to (1) replace the Port Area facilities which were taken or conveyed, (2) provide additional revenue-producing Port Area facilities, (3) redeem Bonds or (4) create an escrow fund pledged to pay specified Bonds and thereby cause such Bonds to be deemed to be paid as provided in Article X hereof.

ARTICLE VII

DEFAULT AND REMEDIES

Section 7.01. Events of Default. Each of the following is hereby declared an "Event of Default" hereunder:

(a) if payment of any installment of interest on any Bond shall not be made in full when the same becomes due and payable;

(b) if payment of the Principal Amount of any Bond shall not be made in full when the same becomes due and payable, whether at maturity or by proceedings for redemption or otherwise;

(c) if payment of the purchase price of any Bond tendered for optional or mandatory purchase in accordance with the provisions of the Supplemental Indenture providing for the issuance of such Bond shall not be made in full when due;

(d) if the Commission shall fail to observe or perform any other covenant or agreement on its part under this Indenture, other than the covenant or agreement set forth in Section 6.02(a) hereof, for a period of 60 days after the date on which written notice of such failure, requiring the same to be remedied, shall have been given to the Commission by the Trustee, or to the Commission and the Trustee by the Owners of at least 25% in aggregate Principal Amount of Bonds then Outstanding; provided, however, that if the breach of covenant or agreement is one which cannot be completely remedied within the 60 days after written notice has been given, it shall not be an Event of Default as long as the Commission has taken active steps within the 60 days after written notice has been given to remedy the failure and is diligently pursuing such remedy;

(e) subject to subsection (c) of Section 6.02 hereof, if the Commission is required pursuant to Section 6.02(b) hereof to take measures to revise its business operations and/or its schedule of rentals, rates, fees and charges for the use of the Port Area and Net Revenue for the Fiscal Year in which such adjustments are made are less than the amount specified in Section 6.02(a) hereof;

(f) if either the Commission or the City shall institute proceedings to be adjudicated a bankrupt or insolvent, or shall consent to the institution of bankruptcy or insolvency proceedings against it, or shall file a petition or answer or consent seeking reorganization or relief under the federal Bankruptcy Code or any other similar applicable federal or state law, or shall consent to the filing of any such petition or to the appointment of a receiver, liquidator, assignee, trustee or sequestrator (or other similar official) of the Commission or of any substantial part of its property, or shall fail to timely controvert an involuntary petition filed against it under the federal Bankruptcy Code, or shall consent to entry of an order for relief under the federal Bankruptcy Code, or shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due;

(g) The occurrence of any other Event of Default as provided in a Supplemental Indenture.

Section 7.02. Acceleration. (a) In each and every such case of the continuance of an Event of Default under Section 7.01 hereof, the Trustee may, and upon the written request of the Credit Provider or Providers identified in any Supplemental Indenture or the Holders of not less than fifty-one percent (51%) in aggregate Principal Amount of the Bonds then Outstanding shall, by notice in writing to the Commission, declare the Principal Amount of all Bonds then Outstanding and the interest accrued thereon to be due and payable immediately, and upon such declaration of the same, payment of the Principal Amount of all of the Bonds then Outstanding, and the interest accrued thereon, shall be and shall become immediately due and payable, anything in this Indenture or in the Bonds contained to the contrary notwithstanding.

(b) Promptly after any acceleration of the Bonds, the Trustee shall cause a notice thereof to be mailed, first class, postage prepaid, to all Holders of Bonds and, if provided by a Supplemental Indenture, to one or more Credit Providers. Failure to mail any such notice, or any defect in any notice so mailed, shall not affect such acceleration.

(c) Notwithstanding subsection (a) of this Section 7.02, if at any time after the Principal Amount of the Bonds shall have become due and payable pursuant to an acceleration thereof, and before the entry of final judgment or decree in any suit, action or proceeding instituted on account of such default, or before the completion of the enforcement of any other remedy under this Indenture, (i) sufficient moneys (other than moneys drawn by the Trustee under any Credit Facility) shall have accumulated in the Debt Service Fund to pay the Principal Amount of all matured Bonds of each Series and all arrears of interest, if any, upon all such Bonds then Outstanding (except the Principal Amount of any such Bonds not then due and payable by their terms and the interest accrued on such Bonds since the last Interest Payment Date), (ii) the charges, compensation, expenses, disbursements, advances and liabilities of the Trustee and all other amounts then payable by the Commission hereunder shall have been paid or moneys sufficient to pay the same shall have been deposited with the Trustee, and (iii) every other default known to the Trustee in the observance or performance of any covenant, condition, agreement or provision contained in the Bonds of each Series or in the Indenture (other than a default in the payment of the Principal Amount of such Bonds then due and payable only because of a declaration under this Section 7.02) shall have been remedied to the satisfaction of the Trustee, then and in every such case the Trustee shall, by a notice in writing to the Commission, rescind and annul such acceleration and its consequences, but no such rescission or annulment shall extend to or affect any subsequent default or impair any right consequent thereon.

Section 7.03. Remedies and Enforcement of Remedies. Subject to the provisions of Section 7.13 hereof, upon the occurrence and continuance of an Event of Default, the Trustee may, or upon the written request of the Holders of not less fifty-one percent (51%) in aggregate Principal Amount of the Bonds together with indemnification of the Trustee to its satisfaction therefor shall, proceed forthwith to protect and enforce its rights and the rights of the Bondholders hereunder and under the Act and such Bonds by such suits, actions or proceedings as the Trustee, being advised by counsel, shall deem expedient, including but not limited to:

(i) Actions to recover money or damages due and owing;

(ii) Actions to enjoin any acts or things which may be unlawful or in violation of the rights of the Holders of such Bonds; and

(iii) Enforcement of any other right of such Bondholders conferred by law, including the Act, or hereby, including without limitation by suit, action, injunction, mandamus or other proceedings to enforce and compel the performance by the Commission of actions required by the Act or the Indenture, including the fixing, charging and collection of fees or other charges.

Section 7.04. Application of Revenue and Other Moneys After Default. During the continuance of an Event of Default, all moneys held and received by the Trustee with respect to the Bonds pursuant to any right given or action taken under the provisions of this Article VII shall, after payment of the costs and expenses of the proceedings which result in the collection of such moneys and of the fees, expenses and advances incurred or made by the Trustee with respect to such Event of Default, be applied as follows; provided, however, that any proceeds of a Credit Facility, if any, and amounts held in the Debt Service Fund and the Reserve Fund pledged to a particular Series of Bonds shall be applied solely to pay Principal Amount, premium, if any, purchase price, if any, of or interest, as applicable, on the related Series of Bonds:

First: To the payment to the persons entitled thereto of all installments of interest then due on such Bonds in the order of maturity of such installments, and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon to the persons entitled thereto, without any discrimination or preference; and

Second: To the payment to the persons entitled thereto of the unpaid Principal Amounts and premium, if any, of any such Bonds which shall have become due (other than Bonds previously called for redemption for the payment of which moneys are held pursuant to the provisions hereof), whether at maturity, upon tender or purchase or acceleration or by proceedings for redemption or otherwise, in the order of their due dates as provided herein and in the Supplemental Indenture under which they were issued, and if the amounts available shall not be sufficient to pay in full all the Bonds due on any date, then to the payment thereof ratably, according to the Principal Amounts due on such date, to the persons entitled thereto, without any discrimination or preference.

Whenever moneys are to be applied by the Trustee pursuant to the provisions of this Section 7.04, such moneys shall be applied by it at such times, and from time to time, as the Trustee shall determine in accordance with this Indenture, having due regard for the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. The Trustee shall give such notice as it may deem appropriate in accordance with this Indenture of the deposit with it of any such moneys, and shall not be required to make payment to the Holder of any Bond until such Bond shall be presented to the Trustee for appropriate endorsement of any partial payment or for cancellation if fully paid.

Whenever the Principal Amount, premium, if any, purchase price, if any, and interest thereon of all Bonds of a Series have been paid under the provisions of this Section 7.04 and all expenses and charges of the Trustee have been paid, and each Credit Provider, if any, has been reimbursed for all amounts drawn under the applicable Credit Facility, if any, and used to pay Principal Amount, premium, if any, purchase price, if any, and interest on the Bonds and no Repayment Obligation shall be outstanding, any balance remaining shall be paid first to such Credit Provider to the extent any other amounts are then owing to such Credit Provider under the applicable agreement, and then to the Commission or as a court of competent jurisdiction may direct.

Section 7.05. Remedies Not Exclusive. No remedy by the terms hereof conferred upon or reserved to the Trustee or the Bondholders or any Credit Provider is intended to be exclusive of any other remedy but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or existing at law or in equity or by statute, including the Act, on or after the date hereof.

Section 7.06. Remedies Vested in Trustee. All rights of action (including the right to file proof of claims) hereunder or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceedings relating thereto. Any such suit or proceeding instituted by the Trustee may be brought in its name as the Trustee without the necessity of joining as plaintiffs or defendants any Holders of the Bonds. Subject to the provisions of Sections 7.03 and 7.04 hereof, any recovery or judgment shall be for the equal benefit of the Holders of the Outstanding Bonds.

Section 7.07. Control of Proceedings. (a) If an Event of Default shall have occurred and be continuing, the Holders of at least fifty-one percent (51%) in aggregate Principal Amount of the Bonds of one or more Series then Outstanding shall have the right at any time, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the method and place of conducting any proceeding to be taken with respect to funds or assets solely securing such one or more Series in connection with the enforcement of the terms and conditions hereof; provided, that such direction is in accordance with law and the provisions hereof (including indemnity to the Trustee as provided herein) and, in the sole judgment of the Trustee, is not unduly prejudicial to the interests of Bondholders of such Series of Bonds not joining in such direction; and provided further, that nothing in this Section 7.07 shall impair the right of the Trustee in its discretion to take any other action hereunder which it may deem proper and in accordance with the Indenture and which is not inconsistent with such direction by Bondholders.

(b) If an Event of Default with respect to shall have occurred and be continuing, the Holders of at least fifty-one percent (51%) in aggregate Principal Amount of all Bonds then Outstanding shall have the right, at any time, by an instrument in writing executed and delivered to the Trustee to direct the method and place of conducting any proceeding to be taken with respect to Net Revenue or other assets securing all Bonds in connection with the enforcement of the terms and conditions hereof, provided, that such direction is in accordance with law and the provisions hereof (including indemnity to the Trustee as provided herein) and, in the sole judgment of the Trustee, is not unduly prejudicial to the interests of Bondholders not joining in such direction; and provided further, that nothing in this Section 7.07 shall impair the right of the Trustee in its discretion to take any other action hereunder which it may deem proper in accordance with this Indenture and which is not inconsistent with such direction by Bondholders.

Section 7.08. Individual Bondholder Action Restricted. (a) No Holder of any Bond shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement hereof or for the execution of any trust hereunder or for any remedy hereunder unless:

(i) an Event of Default has occurred with respect to such Series (A) under subsection (a), (b), (c) or (g) of Section 7.01 of which the Trustee is deemed to have notice, or (B) under subsection (d), (e) or (f) of Section 7.01 as to which the Trustee has actual knowledge, or (C) as to which the Trustee has been notified in writing by the Commission, or (D) as to which the Commission and the Trustee have been notified in writing by the Holders of at least twenty-five percent (25%) in aggregate Principal Amount of the Bonds then Outstanding;

(ii) the Holders of at least fifty-one percent (51%) in aggregate Principal Amount of Bonds then Outstanding have made written request to the Trustee to proceed to exercise the powers granted herein or to institute such action, suit or proceeding in its own name; and

(iii) such Bondholders shall have offered the Trustee indemnity as provided in Section 8.02 hereof; and

(iv) the Trustee shall have failed or refused to exercise the powers herein granted or to institute such action, suit or proceedings in its own name for a period of 60 days after receipt by it of such request and offer of indemnity.

(b) No one or more Holders of Bonds of any Series shall have any right in any manner whatsoever to affect, disturb or prejudice the security hereof or to enforce any right hereunder except in the manner herein provided and for the equal benefit of the Holders of all Bonds then Outstanding.

(c) Nothing contained herein shall affect or impair, or be construed to affect or impair, the right of the Holder of any Bond (i) to receive payment of the Principal Amount of, premium, if any, purchase price, if any, or interest on such Bond on or after the due date thereof, or (ii) to institute suit for the enforcement of any such payment on or after such due date; provided, however, no Holder of any Bond may institute or prosecute any such suit or enter judgment therein if, and to the extent that, the institution or prosecution of such suit or the entry of judgment therein would, under applicable law, result in the surrender, impairment, waiver or loss of the lien hereof on the moneys, funds and properties pledged hereunder for the equal and ratable benefit of all Holders of Bonds.

Section 7.09. Termination of Proceedings. In case any proceeding taken by the Trustee on account of an Event of Default shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or to the Bondholders, then the Commission, the Trustee and the Bondholders shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Trustee and the Bondholders shall continue as if no such proceeding had been taken.

Section 7.10. Waiver of Event of Default. (a) No delay or omission of the Trustee, of any Holder of the Bonds or, if provided hereby or by Supplemental Indenture, any Credit Provider, to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or, an

acquiescence therein. Every power and remedy given by this Article VII to the Trustee, the Holders of the Bonds and, if provided hereby or by Supplemental Indenture, any Credit Provider, respectively, may be exercised from time to time and as often as may be deemed expedient by them.

(b) The Trustee, with the consent of any Credit Provider if required by Supplemental Indenture (provided, however, that such Credit Provider's consent may be required only in connection with an Event of Default on a Series of Bonds with respect to which such Credit Provider is providing a Credit Facility), may waive any Event of Default with respect to the Bonds that, in its opinion, shall have been remedied at any time, regardless of whether any suit, action or proceeding has been instituted, before the entry of final judgment or decree in any suit, action or proceeding instituted by it under the provisions hereof, or before the completion of the enforcement of any other remedy hereunder.

(c) Notwithstanding anything contained herein to the contrary, the Trustee, upon the written request of (i) the Credit Provider, if any, if required by Supplemental Indenture, or (ii) Holders of at least fifty-one percent (51%) of the aggregate Principal Amount of Bonds then Outstanding, with the consent of the applicable Credit Provider, if any, if provided for hereby or by Supplemental Indenture, shall waive any such Event of Default hereunder and its consequences; provided, however, that a default in the payment of the Principal Amount of, premium, if any, purchase price, if any, or interest on any such Bond, when the same shall become due and payable by the terms thereof or upon call for redemption, may not be waived without the written consent of the Holders of all the Bonds then Outstanding of such Series to which such Event of Default applies and any consent of the applicable Credit Provider, if any, if provided for hereby or by Supplemental Indenture.

(d) In case of any waiver by the Trustee of an Event of Default hereunder, the Commission, the Trustee, the Bondholders and, if required by Supplemental Indenture, the Credit Provider, if any, shall be restored to their former positions and rights hereunder, respectively, but no such waiver shall extend to any subsequent or other Event of Default or impair any right consequent thereon. The Trustee shall not be responsible to anyone for waiving or refraining from waiving any Event of Default in accordance with this Section 7.10.

Section 7.11. Notice of Default. (a) Promptly, but in any event within 30 days after the occurrence of an Event of Default of which the Trustee is deemed to have notice pursuant to Section 8.10 of this Indenture, the Trustee shall, unless such Event of Default shall have theretofore been cured, give written notice thereof by first class mail to each Holder of registered Bonds then Outstanding, provided that, except in the case of a default in the payment of Principal Amounts, sinking fund installments, purchase price or the redemption price of or interest on any of the Bonds, the Trustee may withhold such notice to such Holders if, in its sole judgment in accordance with the Indenture, it determines that the withholding of such notice is in the best interests of the Holders of the Bonds.

(b) The Trustee shall promptly notify the Commission, the Registrar and any Credit Provider, if required to hereby or by a Supplemental Indenture, of the occurrence of an

Event of Default of which the Trustee is deemed to have notice pursuant to Section 8.10 of this Indenture.

Section 7.12. Limitations on Remedies. It is the purpose and intention of this Article VII to provide rights and remedies to the Trustee and Bondholders which lawfully may be granted under the provisions of the Act, but should any right or remedy herein granted be held to be unlawful, the Trustee and the Bondholders shall be entitled as above set forth to every other right and remedy provided in this Indenture and by law.

Section 7.13. Credit Providers to Control Remedies. While a Credit Facility (other than a Credit Facility on deposit in the Reserve Fund) with respect to any Bonds is in effect, notwithstanding anything else herein to the contrary, a Supplemental Indenture may provide that so long as the Credit Provider is not Insolvent and is not in default under its Credit Facility, no right, power or remedy hereunder with respect to such Bonds may be pursued without the prior written consent of such Credit Provider. The Supplemental Indenture may further provide that the Credit Provider shall have the right to direct the Trustee to pursue any right, power or remedy available hereunder with respect to any assets available hereunder which secure no Bonds other than the Bonds secured by such Credit Facility.

Section 7.14. Incontestability of Bonds. The provisions of this Indenture shall constitute a contract between the Commission and the Owners of the Bonds, and from and after the issuance of a Series of Bonds and their sale and delivery by the Commission, the Bonds shall be incontestable by the Commission.

Section 7.15. Limitation on Commission's Obligation. The Owners of the Bonds issued hereunder expressly understand and agree by their acceptance of the Bonds, that as of the date of this Indenture the Commission has no taxing power whatsoever, and nothing herein contained shall be deemed to require the Commission to advance any moneys derived from the levy or collection of taxes by the City for the payment of the Principal Amount of, purchase price, if any, premium, if any, or interest on the Bonds. Neither the credit nor the taxing power of the City is pledged for the payment of the Principal Amount of, premium, if any, purchase price, if any, or interest on the Bonds, and the general fund of the City is not liable for the payment of the Bonds or the interest thereon. The Owners of the Bonds cannot compel the exercise of the taxing power by the City or the forfeiture of its property or the property of the Commission.

The principal of and interest on the Bonds and any premiums upon the redemption of any thereof are not a debt of the Commission nor a legal or equitable pledge, charge, lien or encumbrance upon any of its property or on any of its income, receipts or revenue except the Net Revenue and other funds that may be legally applied, pledged or otherwise made available to their payment as in this Indenture provided.

Neither the Commission nor any officer thereof shall be liable or obligated for the payment of the Principal Amount, premium, if any, purchase price, if any, of or interest on the Bonds or for any payment agreed to be made or contemplated to be made pursuant to any of the terms of this Indenture, save and except solely and exclusively from Net Revenue and the other

moneys pledged thereto pursuant to this Indenture or any Supplemental Indenture authorizing the issuance thereof. Nothing herein contained shall prevent the Commission from making advances of its funds howsoever derived to any of the uses and purposes in this Indenture mentioned, provided such funds are derived from any source legally available for such purpose and may be used by the Commission for such purpose without incurring indebtedness.

ARTICLE VIII

THE TRUSTEE

Section 8.01. Acceptance of Trust; General. The Trustee by execution of this Indenture evidences its acceptance of the powers, duties and obligations of the Trustee as are set forth herein. The Trustee shall have no duty, responsibility or obligation for the payment of Bonds except for payment in accordance with the terms and provisions hereof from, and to the extent of, funds which are held in trust by the Trustee for the purpose of such payment.

Prior to an Event of Default and after the curing or waiving of all Events of Default which may have occurred, the Trustee shall not be liable except for the performance of such duties as are specifically set forth herein. The Trustee shall have no liability for any act or omission to act hereunder, or under any other instrument or document executed pursuant hereto except for the Trustee's own negligent action, its own negligent failure to act or its own willful misconduct. The duties and obligations of the Trustee shall be determined solely by the express provisions hereof, and no implied powers, duties or obligations of the Trustee shall be read into this Indenture.

During an Event of Default, the Trustee shall exercise such of the rights and powers vested in it hereby, and shall use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs.

The Trustee shall not be required to expend or risk its own funds or otherwise incur individual liability in the performance of any of its duties or in the exercise of any of its rights or powers as the Trustee, except as may result from its own negligent action, its own negligent failure to act or its own willful misconduct.

Notwithstanding any other provision hereof, the Trustee shall have no liability for any (a) error of judgment made in good faith by an officer or officers of the Trustee, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts, or (b) action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of not less than the requisite Principal Amount of Bonds Outstanding specified in Section 7.03 or Section 7.07 hereof, as the case may be, then existing relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred upon the Trustee hereunder.

Section 8.02. Trustee Not Required to Take Action Unless Indemnified. Except as expressly required herein (including the requirements of the next sentence) the Trustee neither

shall be required to institute any suit or action or other proceeding in which it may be a defendant, nor to take any steps to enforce its rights and expose it to liability, nor shall the Trustee be deemed liable for failure to take any such action, unless and until it shall have been indemnified, to its satisfaction, against any and all reasonable costs, expenses, outlays, counsel and other fees, other disbursements including its own reasonable fees and against all liability and damages. The Trustee, nevertheless, may begin suit, or appear in and defend suit, or do anything else which in its judgment is proper to be done by it as the Trustee, without prior assurance of indemnity, and in such case the Commission shall reimburse the Trustee for all reasonable costs, expenses, outlays, counsel and other fees, and other reasonable disbursements including its own fees, and for all liability and damages suffered by the Trustee in connection therewith, except for the Trustee's own negligent action, its own negligent failure to act, its own willful misconduct or self-dealing constituting a breach of trust under applicable law. If the Trustee begins, appears in or defends such a suit, the Trustee shall give prompt notice of such action to the Commission and shall give such notice prior to taking such action if possible. If the Commission shall fail to make such reimbursement, the Trustee may reimburse itself for any costs and expenses in accordance with Section 7.04 hereof.

Section 8.03. Employment of Experts. The Trustee is hereby authorized to employ as its agents such attorneys at law, and other qualified independent consultants (who are not employees of the Trustee), as it may deem necessary to carry out any of its obligations hereunder, and shall be reimbursed by the Commission for all reasonable expenses and charges in so doing. The Trustee shall not be responsible for any misconduct or negligence of any such agent appointed with due care by the Trustee.

Section 8.04. Enforcement of Performance by Others. It shall not be the duty of the Trustee, except as herein specifically provided, to seek the enforcement of any duties and obligations herein imposed upon the Commission.

Section 8.05. Right to Deal in Bonds and Take Other Actions. The Trustee may in good faith buy, sell or hold and deal in any Bonds with like effect as if it were not such Trustee and may commence or join in any action which a Holder is entitled to take with like effect as if the Trustee were not the Trustee. It is understood and agreed that the Trustee engages in a general banking business and no provision hereof is to be construed to limit or restrict the right of the Trustee to engage in such business with the Commission or any Holder. So engaging in such business shall not, in and of itself, and so long as the Trustee duly performs all of its duties as required hereby, constitute a breach of trust on the part of the Trustee.

Section 8.06. Removal and Resignation of Trustee. The Trustee may resign at any time. Written notice of such resignation shall be given to the Commission and such resignation shall take effect upon the later of the date 90 days after receipt of such notice by the Commission or the date of the appointment and qualification of a successor Trustee. In the event a successor Trustee has not been appointed and qualified within 60 days after the date notice of resignation is given, the Trustee or the Commission may apply to any court of competent jurisdiction for the appointment of a successor Trustee to act until such time as a successor is appointed as provided in this Section 8.06.

In addition, the Trustee may be removed at any time by the Commission so long as (a) no Event of Default shall have occurred and be continuing and (b) the Commission determines, that the removal of the Trustee shall not have an adverse effect upon the rights or interests of the Bondholders. Subject to clause (b) of the preceding sentence, in the event the Trustee becomes Insolvent, the Commission may remove the Trustee by written notice effective immediately upon the appointment and qualification of a successor Trustee.

In the event of the resignation or removal of the Trustee or in the event the Trustee is dissolved, becomes Insolvent or otherwise becomes incapable to act as the Trustee, the Commission shall be entitled to appoint a successor Trustee. In such event, the successor Trustee shall cause notice to be mailed to the Holders of all Bonds then Outstanding in such manner deemed appropriate by the Commission. If the Trustee resigns, the resigning Trustee shall pay for such notice. If the Trustee is removed, is dissolved, becomes insolvent or otherwise becomes incapable of acting as Trustee, the Commission shall pay for such notice.

Unless otherwise ordered by a court or regulatory body having competent jurisdiction, or unless required by law, any successor Trustee shall be a trust company or bank having the powers of a trust company as to trusts, qualified to do and doing trust business within the State of California and having an officially reported combined capital, surplus, undivided profits and reserves aggregating at least $50,000,000, if there is such an institution willing, qualified and able to accept the trust upon reasonable or customary terms.

Every successor Trustee howsoever appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the Commission an instrument in writing, accepting such appointment hereunder, and thereupon such successor Trustee, without further action, shall become fully vested with all the rights, immunities, powers, trusts, duties and obligations of its predecessor, and such predecessor shall execute and deliver an instrument transferring to such successor Trustee all the rights, powers and trusts of such predecessor. The predecessor Trustee shall execute any and all documents necessary or appropriate to convey all interest it may have to the successor Trustee. The predecessor Trustee promptly shall deliver all records relating to the trust or copies thereof and communicate all material information it may have obtained concerning the trust to the successor Trustee.

Each successor Trustee, not later than 10 days after its assumption of the duties hereunder, shall mail a notice of such assumption to each Holder of a registered Bond.

Section 8.07. Proof of Claim. The Trustee shall have the right and power to act in its name or in the name and place of the Commission or Holders to make proof of claim in any proceeding, bankruptcy, reorganization or otherwise where proof of claim may be required, including proofs of claim against Credit Providers. Any amount recovered by the Trustee as a result of any such claim, after payment of all fees (including reasonable attorneys' fees), costs, expenses and advances paid or incurred by the Trustee or its agents in pursuing such claim, shall be for the equal benefit of all holders of Outstanding Bonds.

Section 8.08. Trustee's Fees and Expenses. The Commission hereby agrees to pay fees to and expenses of the Trustee for its services hereunder as agreed to by the Commission and the Trustee pursuant to the terms of a separate agreement.

Section 8.09. Reliance Upon Documents. In the absence of bad faith on the part of the Trustee, the Trustee may conclusively rely upon and shall be protected in acting or refraining from acting in reliance upon any document, including but not limited to any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order or other paper or document reasonably believed by it to be genuine and to have been signed or presented by the proper officials of the Commission, the Treasurer, the City, a Port Consultant, a Financial Consultant, an Independent Auditor, the Holders or agents or attorneys of the Holders; provided, in the case of any such document specifically required to be furnished to the Trustee hereby, the Trustee shall be under a duty to examine the same to determine whether it conforms to the requirements hereof. The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond or other paper or document submitted to the Trustee; provided, however, the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may deem prudent. Whenever in the administration hereof, the Trustee shall deem it desirable that a matter be proved or established prior to taking or not taking any action hereunder, the Trustee (unless other evidence be specifically prescribed herein) may rely upon any document provided for in this Indenture.

Except where other evidence is required hereby, any request or direction of the Commission mentioned herein shall be sufficiently evidenced by a certified copy of such request executed by a Authorized Commission Representative.

Section 8.10. Recitals and Representations. The recitals, statements and representations contained herein or in any Bond shall be taken and construed as made by and on the part of the Commission and not by the Trustee, and the Trustee neither assumes nor shall be under any responsibility for the correctness of the same other than the Trustee's certification of authentication of any Bonds as to which it is Authenticating Agent.

The Trustee makes no representation as to, and is not responsible for, the validity or sufficiency hereof or, except as herein required, the filing or recording or registering of any document. The Trustee shall be deemed not to have made representations as to the security afforded hereby or hereunder or as to the validity or sufficiency of such document. The Trustee shall not be concerned with or accountable to anyone for the use or application of any moneys which shall be released or withdrawn in accordance with the provisions hereof. The Trustee shall not be responsible or liable for any loss suffered in connection with the investment of any funds made by it in accordance with the provisions hereof.

Except with respect to Events of Default described in Section 7.01(a), (b) and (c) hereof, the Trustee shall have no duty of inquiry with respect to any default which constitutes or with notice or lapse of time or both would constitute an Event of Default without actual knowledge of the Trustee or receipt by the Trustee of written notice of a default which

constitutes or with notice or lapse of time or both would constitute an Event of Default from the Commission or any Holder.

The Trustee shall be deemed to have knowledge of the existence of an Event of Default only in the following circumstances: (i) in the case of an Event of Default referred to in paragraphs (a), (b) and (c) of Section 7.01 hereof, upon the occurrence of such Event of Default, and (ii) in the case of an Event of Default referred to in paragraph (d), (e), (f) and (g) of Section 7.01 of this Indenture, when any Responsible Officer of the Trustee obtains actual knowledge of the occurrence of such Event of Default or when the Trustee receives written notice thereof from the Commission or from any Holder.

Section 8.11. Reports and Records. (a) The Trustee shall at all times keep or cause to be kept proper records in which complete and accurate entries shall be made of all transactions made by it relating to the proceeds of the Bonds and all Funds and Accounts established and maintained by the Trustee pursuant to this Indenture. Such records shall be available for inspection by the Commission on each Business Day during reasonable business hours and by any Owner or its agent or representative duly authorized in writing at reasonable hours and under reasonable circumstances. The Trustee shall not be required to maintain records with respect to transactions made by the Treasurer or the Commission or with respect to Funds and Accounts established and maintained by the Treasurer.

(b) The Trustee shall provide to the Commission each month a report of the amounts deposited in each Fund and Account held by it under this Indenture and the amount disbursed from such Funds and Accounts, the earnings thereon, the ending balance in each of such Funds and Accounts, the investments in each such Fund and Account and the yield on each investment calculated in accordance with the directions of an Authorized Commission Representative.

(c) The Trustee shall annually, within a reasonable period after the end of the Fiscal Year, provide to the Commission and to each owner who shall have filed its name and address with the Trustee for such purpose (at such Owner's cost) a statement, which need not be audited, covering receipts, disbursements, allocation and application of Bond proceeds, Net Revenue and any of the moneys in any of the Funds and Accounts established pursuant to this Indenture for the proceeding year.

Section 8.12. Paying Agent, Authenticating Agent and Registrar. The Commission may appoint a Paying Agent, an Authenticating Agent and a Registrar with respect to a Series of Bonds in the Supplemental Indenture pursuant to which such Series is issued. The Paying Agent, Authenticating Agent and Registrar shall be the Trustee, unless the Commission appoints another person to act in such capacities for one or more Series of Bonds. Each Paying Agent, Authenticating Agent and Registrar shall (i) designate to the Trustee its principal office and (ii) signify its acceptance of the duties and obligations imposed upon it hereunder and under such Supplemental Indenture by written instrument of acceptance delivered to the Commission and the Trustee.

Each Paying Agent, Authenticating Agent or Registrar shall exercise its duties in accordance with the terms of and shall have the protection provided to the Trustee in this Indenture.

If any Paying Agent, Authenticating Agent or Registrar shall resign or be removed, the Commission shall designate a successor. If the Commission shall designate a successor, then, upon the Trustee's receipt of the written designation and the written acceptance of such designated successor, such entity shall thereupon, without further action by the Commission, be appointed as successor Paying Agent, Authenticating Agent or Registrar, as the case may be.

In the event that any Paying Agent, Authenticating Agent or Registrar shall resign or be removed, or be dissolved, or if the property or affairs of any Paying Agent, Authenticating Agent or Registrar shall be taken under the control of any state or federal court or administrative body because of bankruptcy or insolvency, or for any other reason, and no successor shall have been appointed, the Trustee shall, ipso facto be deemed to be Paying Agent, Authenticating Agent or Registrar, until the appointment of a successor. In each case in which the Trustee is acting as Paying Agent, Authenticating Agent or Registrar for any Series of Bonds, the Trustee in such capacities shall be entitled to all of the immunities and protections from liability that are provided in this Article VIII.

Any corporation into which any Paying Agent, Authenticating Agent or Registrar may be merged or converted or with which it may be consolidated, or any corporation resulting from any such merger, consolidation or conversion, or succeeding to the corporate trust business of Paying Agent, Authenticating Agent or Registrar, shall be the successor of the Paying Agent, the Authenticating Agent and the Registrar if such successor corporation is otherwise eligible under this Section 8.12, without the execution or filing of any further act on the part of the Trustee or the entity serving as Paying Agent, Authenticating Agent or Registrar or such successor corporation.

Section 8.13. Merger, Conversion, Consolidation or Succession to Business. Any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, provided such corporation shall be otherwise qualified and eligible under this Article VIII, without the execution or filing of any paper or any further act on the part of any of the parties hereto.

Section 8.14. Other Agents. The Commission or the Trustee with the consent of the Commission may from time to time appoint other agents as may be appropriate at the time to perform duties and obligations under this Indenture or under a Supplemental Indenture all as provided by Supplemental Indenture or resolution of the Commission.

ARTICLE IX

SUPPLEMENTAL INDENTURES

Section 9.01. Supplemental Indentures Not Requiring Consent of Bondholders. The Commission may adopt, without the consent of or notice to any of the Holders, one or more Supplemental Indentures for one or more of the following purposes:

(a) to cure any ambiguity or formal defect or omission herein;

(b) to correct or supplement any provision herein which may be inconsistent with any other provision herein, or to make any other provisions with respect to matters or questions arising hereunder that shall not have a material adverse effect on the interests of the Holders;

(c) to grant or confer upon the Holders any additional rights, remedies, powers or authority that may lawfully be granted or conferred upon them;

(d) to secure additional revenue or provide additional security or reserves for payment of any Bonds;

(e) to preserve the excludability of interest on any Bonds from gross income for purposes of federal income taxes, or to change the tax covenants set forth in Section 6.07 hereof, pursuant to an Opinion of Bond Counsel that such action will not affect adversely such excludability;

(f) to provide for the issuance of, and to set the terms and conditions of, each additional Series of Bonds hereunder, including covenants and provisions with respect thereto which do not violate the terms of this Indenture;

(g) to add requirements the compliance with which is required by a Rating Agency in connection with issuing a rating with respect to any Series of Bonds;

(h) to confirm, as further assurance, any interest of the Trustee in and to the Net Revenue or in and to the Funds and Accounts held by the Trustee or in and to any other moneys, securities or funds of the Commission provided pursuant to this Indenture;

(i) to comply with the requirements of the Trust Indenture Act of 1939, as amended, to the extent applicable;

(j) to provide for uncertificated Bonds or for the issuance of coupon or bearer Bonds;

(k) to accommodate the use of a Credit Facility for specific Bonds or a Series of Bonds; and

(l) to make any other change or addition hereto which, in the Opinion of Bond Counsel, shall not have a material adverse effect on the interests of the Holders.

Section 9.02. Supplemental Indentures Requiring Consent of Bondholders. (a) Other than Supplemental Indentures referred to in Section 9.01 hereof and subject to the terms, provisions and limitations contained in this Article IX, the Holders of at least fifty-one percent (51%) in aggregate Principal Amount of the Outstanding Bonds of all Series affected by such amendment may consent to or approve, which consent to or approval shall be in writing, the execution by the Commission of such Supplemental Indentures as shall be deemed necessary and desirable by the Commission for the purpose of modifying, altering, amending, adding to or rescinding any of the terms or provisions with respect to such Series contained in the Indenture; provided, however, nothing in this Section 9.02 shall permit or be construed as permitting a Supplemental Indenture which would:

(i) extend the stated maturity of or time or change the currency for paying the Principal Amount or purchase price of, premium, if any, or interest on any Bond or reduce the Principal Amount or purchase price of or the redemption premium or rate of interest payable on any Bond without the consent of the Holder of such Bond;

(ii) except as expressly permitted by this Indenture, prefer or give a priority to any Bond over any other Bond without the consent of the Holder of each Bond then Outstanding not receiving such preference or priority; or

(iii) permit the creation of a lien not expressly permitted by this Indenture upon or pledge of the Net Revenue ranking prior to or on a parity with the lien of this Indenture or reduce the aggregate Principal Amount of Bonds then Outstanding the consent of the Holders of which is required to authorize such Supplemental Indenture, without the consent of the Holders of all Bonds then Outstanding.

(b) If at any time the Commission shall propose the adoption of a Supplemental Indenture pursuant to this Section 9.02, the Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of the proposed adoption of such Supplemental Indenture to be mailed by first class mail, postage prepaid, to all Holders of Bonds of any affected Series then outstanding at their addresses as they appear on the registration books herein provided for. The Trustee, however, shall not be subject to any liability to any Bondholder by reason of its failure to mail, or the failure of such Bondholder to receive, the notice required by this Section 9.02, and any such failure shall not affect the validity of such Supplemental Indenture when consented to and approved as provided in this Section 9.02. Such notice shall set forth briefly the nature of the proposed Supplemental Indenture and shall state that copies thereof are on file at the office of the Trustee for inspection by all Bondholders.

(c) If within such period, not exceeding one year, as shall be prescribed by the Commission, following the first giving of a notice as provided in subsection (b) above, the Trustee shall receive an instrument or instruments purporting to be executed by the Holders of not less than the aggregate Principal Amount of Bonds specified in subsection (a) above for the Supplemental Indenture in question which instrument or instruments shall refer to the proposed

Supplemental Indenture described in such notice and shall specifically consent to and approve the execution thereof in substantially the form of the copy thereof referred to in such notice as on file with the Trustee, thereupon, but not otherwise, the Trustee may accept such Supplemental Indenture in substantially such form, without liability or responsibility to any Holder of any Bond, regardless of whether such Holder shall have consented thereto.

(d) Any such consent shall be binding upon the Holder of the Bond giving such consent and upon any subsequent Holder of such Bond and of any Bond issued in exchange therefor (regardless of whether such subsequent Holder thereof has notice thereof), unless such consent is revoked in writing by the Holder of such Bond giving such consent or by a subsequent Holder thereof by filing with the Trustee, prior to the acceptance by the Trustee of such Supplemental Indenture, such revocation. At any time after the Holders of the required Principal Amount of Bonds shall have filed their consents to the Supplemental Indenture, the Trustee shall make and file with the Commission a written statement to that effect. Such written statement shall be conclusive that such consents have been so filed.

(e) If the Holders of the required Principal Amount of the Bonds Outstanding shall have consented to and approved the adoption by the Commission of such Supplemental Indenture as herein provided, no Holder of any Bond shall have any right to object to the adoption thereof, or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the execution thereof or to enjoin or restrain the Trustee or the Commission from adopting the same or taking any action pursuant to the provisions thereof.

Section 9.03. Execution and Effect of Supplemental Indentures. (a) The Trustee may but shall not be obligated to accept any such Supplemental Indenture which affects the Trustee's own rights, duties or immunities.

(b) Upon the adoption of any Supplemental Indenture in accordance with this Article IX, the provisions hereof shall be modified in accordance therewith and such Supplemental Indenture shall form a part hereof for all purposes and every Holder of a Bond theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

(c) Any Bond authenticated and delivered after the adoption of any Supplemental Indenture in accordance with this Article IX may, and if required by the Commission or the Trustee shall, bear a notation in form approved by the Commission and Trustee as to any matter provided for in such Supplemental Indenture. If the Commission shall so determine, new Bonds so modified as to conform in the opinion of the Trustee and the Commission to any such Supplemental Indenture may be prepared and executed by the Commission and authenticated and delivered by the Trustee and the Registrar in exchange for and upon surrender of the Bonds then outstanding.

ARTICLE X

SATISFACTION, DISCHARGE AND DEFEASANCE

Section 10.01. Discharge. If payment of all Principal Amount of, premium, if any, and interest on a Series of Bonds in accordance with their terms and as provided herein is made, or is provided for in accordance with this Article X, and if all other sums payable by the Commission hereunder with respect to such Series of Bonds shall be paid or provided for, then the pledge, lien, and security interests granted hereby shall cease with respect to such Series; provided, however, that the rebate provisions, if any, hereof or of the related Supplemental Indenture shall survive so long as there is any amount due to the federal government pursuant to the provisions hereof or of such Supplemental Indenture. Thereupon, upon the request of the Commission, and upon receipt by the Trustee of an Opinion of Counsel stating that all conditions precedent to the satisfaction and discharge as provided above of the lien hereof have been satisfied with respect to such Series of Bonds, the Trustee shall execute and deliver proper instruments acknowledging such satisfaction and discharging the lien hereof with respect to such Series of Bonds. If the lien hereof has been discharged with respect to all Series of Bonds, the Trustee shall transfer all property held by it hereunder, other than moneys or obligations held by the Trustee for payment of amounts due or to become due on the Bonds, to the Commission or such other person as may be entitled thereto as their respective interests may appear. Such satisfaction and discharge shall be without prejudice to the rights of the Trustee thereafter to charge and be compensated or reimbursed for services rendered and expenditures incurred in connection herewith.

The Commission may at any time surrender to the Trustee for cancellation any Bonds previously authenticated and delivered which the Commission at its option may have acquired in any manner whatsoever and such Bond upon such surrender and cancellation shall be deemed to be paid and retired.

Section 10.02. Defeasance. Payment of any Bonds may be provided for by the deposit with the Trustee of moneys, noncallable Governmental Obligations, noncallable Government Certificates or prerefunded municipal obligations described in paragraph (c) of the definition of Permitted Investments in Section 1.01 hereof, or any combination thereof. The moneys and the maturing principal and interest income on such Government Obligations, Government Certificates or prerefunded municipal obligations, if any, must be sufficient and available without reinvestment to pay when due the Principal Amount, whether at maturity or upon fixed redemption dates, or purchase price of and premium, if any, and interest on such Bonds. The moneys, Government Obligations, Government Certificates and prerefunded municipal obligations shall be held by the Trustee irrevocably in trust for the Holders of such Bonds solely for the purpose of paying the Principal Amount or purchase price or redemption price of, including premium, if any, and interest on such Bonds as the same shall mature or become payable upon prior redemption, and, if applicable, upon simultaneous direction, expressed to be irrevocable, to the Trustee to give notice of redemption and to notify all Owners of affected Bonds that the deposit required by this Section 10.02 has been made and that such Bonds are deemed to be paid in accordance with the Indenture and stating the applicable maturity date or redemption date and redemption price.

The Trustee shall receive a verification report from an Independent Auditor as to the sufficiency of moneys and investments to provide for payment of any Bonds in the case of a defeasance thereof.

Bonds the payment of which has been provided for in accordance with this Section 10.02 shall no longer be deemed Outstanding hereunder. The obligation of the Commission in respect of such Bonds shall nevertheless continue but the Holders thereof shall thereafter be entitled to payment only from the moneys, Government Obligations, Government Certificates and prerefunded municipal obligations deposited with the Trustee to provide for the payment of such Bonds.

No Bond may be so provided for if, as a result thereof or of any other action in connection with which the provision for payment of such Bond is made, the interest payable on any Bond with respect to which an Opinion of Bond Counsel has been rendered that such interest is excluded from gross income for federal income tax purposes is made subject to federal income taxes. The Trustee shall receive and may rely upon an Opinion of Bond Counsel to the effect that the provisions of this paragraph will not be breached by so providing for the payment of any Bonds.

Section 10.03. Payment of Bonds After Discharge. Notwithstanding the discharge of the lien hereof as in this Article X provided, the Trustee nevertheless shall retain such rights, powers and duties hereunder as may be necessary and convenient for the payment of amounts due or to become due on the Bonds, including without limitation pursuant to any mandatory sinking fund redemptions, and the registration, transfer, exchange and replacement of Bonds as provided herein. Nevertheless, any moneys held by the Trustee or any Paying Agent for the payment of the Principal Amount of, premium, if any, or interest on any Bond remaining unclaimed for one (1) years after such payment has become due and payable, or such other period provided by law, whether at maturity or upon proceedings for redemption, shall be disposed of pursuant to the provisions of Section 2.14 hereof. After discharge of the lien hereof, but prior to payment of such amounts to Holders or as provided pursuant to Section 2.14 hereof, the Trustee shall invest such amounts in Government Obligations or prerefunded municipal obligations described in paragraph of the definition of Permitted Investments in Section 1.01 hereof for the benefit of the Commission.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Evidence of Acts of Bondholders. Any request, direction, consent or other instrument provided hereby to be signed and executed by the Bondholders may be in any number of concurrent writings of similar tenor and may be signed or executed by such Bondholders in person or by an agent appointed in writing. Proof of the execution of any such request, direction or other instrument or of the writing appointing any such agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes hereof and shall be conclusive in favor of the Trustee and the Commission with regard to any action taken by them, or either of them, under such request or other instrument, namely:

(a) The fact and date of the execution by any person of any such writing may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments in such jurisdiction, that the person signing such writing acknowledged before him or her the execution thereof, or by the affidavit of a witness of such execution; and

(b) The ownership of all registered Bonds shall be proved by the records maintained by the Registrar. Except as otherwise herein expressly provided, the amount of Bonds transferable by delivery held by any person executing such request, declaration or other instrument or writing as a Bondholder, and the numbers thereof, and the date of its holding such Bonds, may be proved by a certificate, which need not be acknowledged or verified, satisfactory to the Trustee, executed by a trust company, bank or other depositary wherever situated, showing that at the date therein mentioned such person had on deposit with, or exhibited to, such depositary the Bonds described in such certificate. Continued ownership after the date of deposit stated in such certificate may be proved by the presentation of such certificate if the certificate contains a statement by the depositary that the Bonds therein referred to will not be surrendered without the surrender of the certificate to the depositary, except with the consent of the Trustee. The Trustee may nevertheless in its discretion require further or other proof in cases where it deems the same desirable.

Nothing in this Section 11.01 shall be construed as limiting the Trustee to the proof herein specified, it being intended that the Trustee may accept any other evidence of the matters herein stated which it may deem sufficient.

Any action taken or suffered by the Trustee pursuant to any provision hereof, upon the request or with the assent of any person who at the time is the Holder of any Bond or Bonds shall be conclusive and binding upon all future Holders of the same Bond or Bonds.

Section 11.02. Limitation of Rights. With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture or the Bonds is intended or shall be construed to give to any person other than the Commission, the Trustee, the Holders of the Bonds and any Paying Agents, Registrars, Authenticating Agents and Credit Providers, if any, any legal or equitable right, remedy or claim under or in respect to this Indenture or any covenants, conditions and provisions herein contained. This Indenture and all of the covenants, conditions and provisions hereof are intended to be and are for the sole and exclusive benefit of the Commission, the Trustee, the Holders of the Bonds and any Paying Agents, Registrars, Authenticating Agents and Credit Providers, if any, as herein provided.

Section 11.03. Credit Provider Defaults. Upon the failure of any Credit Provider to pay Principal Amount of, premium, if any, interest on or the purchase price of the Bonds required to be paid by the Credit Provider pursuant to its Credit Facility, such Credit Provider shall be deemed to be in default for purposes of this Indenture and shall forfeit any rights hereunder.

Section 11.04. Notices to Rating Agencies. The Trustee hereby agrees that if at any time the Bondholders shall consent to any amendment to this Indenture or shall waive any provision of this Indenture then, in each case, the Trustee promptly will give notice of the

occurrence of such event to each Rating Agency rating the Bonds, which notice in the case of an event referred to in clause (c) hereof shall include a copy of such amendment or waiver.

Section 11.05. Partial Invalidity. If any one or more of the covenants or agreements, or portions thereof, provided in this Indenture on the part of the Commission (or the Trustee or of any Paying Agent, Registrar, Authenticating Agent or other agent pursuant to this Indenture) to be performed should be contrary to law, then such covenant or covenants, such agreement or agreements, or such portions thereof, shall be null and void and shall be deemed separable from the remaining covenants and agreements or portions thereof and shall in no way affect the validity of the Indenture or of the Bonds; but the Owners shall retain all the rights and benefits accorded to them under the Act or under any other applicable provision of law.

Section 11.06. Holidays. When the date on which Principal Amount of or interest or premium on any Bond is due and payable is a day which is not a Business Day, payment may be made on Bonds on the next Business Day with the same effect as though payment were made on the due date, and, if such payment is made, no interest shall accrue from and after such due date. When any other action is provided herein to be done on a day named or within a time period named, and the day or the last day of the period falls on a day other than a Business Day, it may be performed on the next Business Day with the same effect as though performed on the appointed day or within the specified period.

Section 11.07. Governing Law. This Indenture and the Bonds shall be governed and construed under and in accordance with the laws of the State of California.

Section 11.08. Notices. (a) Unless otherwise expressly specified or permitted by the terms hereof, all notices, consents or other communications required or permitted hereunder shall be deemed sufficiently given or served if given in writing, mailed by first class mail, postage prepaid and addressed as follows:

(i) If to the Commission, addressed to:

Pier 1
San Francisco Port Commission
Attention: Deputy Director, Finance and Administration
San Francisco, CA 94111

(ii) If to the Trustee, addressed to:

[Trustee]

(iii) If to the Holder of a Bond, addressed to such Holder at the address shown on the books of the Registrar kept pursuant hereto.

(b) The Commission and the Trustee may from time to time by notice in writing designate a different address or addresses for notice hereunder.

Section 11.09. Waiver of Notice. Whenever in this Indenture the giving of notice by mail or as otherwise is required, the giving of such notice may be waived by notice in writing by the person entitled to receive such notice. In any such case the giving or receipt of such notice shall not be a condition precedent for the validity of any action taken in reliance upon such waiver.

Section 11.10. Waiver of Personal Liability. No member of the Commission and no officer, agent or employee of the Commission or of the City shall be individually or personally liable for the payment of the Principal Amount or purchase price of, premium if any, or interest on the Bonds; but nothing herein contained shall relieve any such member, officer, agent or employee from the performance of any official duty provided by law.

Section 11.11. Effective Date of Indenture. This Indenture shall take effect upon its execution and delivery.

Section 11.12. Conflict of Interest. Through its execution of this Indenture, the Trustee acknowledges that it is familiar with the provision of Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitutes a violation of said provisions and agrees that it will immediately notify the City if it becomes aware of any such fact during the term of this Indenture.

Section 11.13. Proprietary or Confidential Information of City. The Trustee understands and agrees that, in the performance of the work or services under this Indenture or in contemplation thereof, the Trustee may have access to private or confidential information which may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. The Trustee agrees that all information disclosed by the City to the Trustee shall be held in confidence and used only in performance of the Indenture. The Trustee shall exercise the same standard of care to protect such information as a reasonably prudent Trustee would use to protect its own proprietary data.

Section 11.14. Ownership of Results. Any interest of Trustee or its Subcontractors, in drawings, plans, specifications, blueprints, studies, reports, memoranda, computation sheets, computer files and media or other documents prepared by the Trustee or its Subcontractors in connection with services to be performed under this Indenture, shall become the property of and will be transmitted to the City. However, the Trustee may retain and use copies for reference and as documentation of its experience and capabilities.

Section 11.15. Works for Hire. If, in connection with services performed under this Indenture, the Trustee or its Subcontractors create artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, blueprints, source codes or any other original works of authorship, such works of authorship shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in such works are the property of the City. If it is ever determined that any works created by the

Trustee or its Subcontractors under this Indenture are not works for hire under U.S. law, the Trustee hereby assigns all copyrights to such works to the City, and agrees to provide any material and execute any documents necessary to effectuate such assignment. With the approval of the City, the Trustee may retain and use copies of such works for reference and as documentation of its experience and capabilities.

Section 11.16. Audit and Inspection of Records. The Trustee agrees to maintain and make available to the City, during regular business hours, accurate books and accounting records relating to its work under this Indenture. The Trustee will permit the City to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Indenture, whether funded in whole or in part under this Indenture. The Trustee shall maintain such data and records in an accessible location and condition for a period of not less than five years after final payment under this Indenture or until after final audit has been resolved, whichever is later. The State of California or any federal agency having an interest in the subject matter of this Indenture shall have the same rights conferred upon City by this Section.

Section 11.17. Subcontracting. The Trustee is prohibited from subcontracting this Indenture or any part of it unless such subcontracting is first approved by the City in writing. Neither party shall, on the basis of this Indenture, contract on behalf of or in the name of the other party. An agreement made in violation of this provision shall confer no rights on any party and shall be null and void.

Section 11.18. Assignment. The services to be performed by Trustee are personal in character and neither this Indenture nor any duties or obligations hereunder may be assigned or delegated by the Trustee unless first approved by the City by written instrument executed and approved in the same manner as this Indenture.

Section 11.19. Non-Waiver of Rights. The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.

Section 11.20. Earned Income Credit (EIC) Forms. Administrative Code section 12O requires that employers provide their employees with IRS Form W-5 (The Earned Income Credit Advance Payment Certificate) and the IRS EIC Schedule, as set forth below. Employers can locate these forms at the IRS Office, on the Internet, or anywhere that Federal Tax Forms can be found. The Trustee shall provide EIC Forms to each Eligible Employee at each of the following times: (i) within thirty days following the date on which this Indenture becomes effective (unless Trustee has already provided such EIC Forms at least once during the calendar year in which such effective date falls); (ii) promptly after any Eligible Employee is hired by Trustee; and (iii) annually between January 1 and January 31 of each calendar year during the term of this Indenture. Failure to comply with any requirement contained in subparagraph (a) of this Section shall constitute a material breach by Trustee of the terms of this Indenture. If, within

thirty days after Trustee receives written notice of such a breach, Trustee fails to cure such breach or, if such breach cannot reasonably be cured within such period of thirty days, the Trustee fails to commence efforts to cure within such period or thereafter fails to diligently pursue such cure to completion, the City may pursue any rights or remedies available under this Indenture or under applicable law. Any Subcontract entered into by Trustee shall require the Subcontractor to comply, as to the Subcontractor's Eligible Employees, with each of the terms of this section. Capitalized terms used in this Section and not defined in this Indenture shall have the meanings assigned to such terms in Section 12O of the San Francisco Administrative Code.

Section 11.21. Local Business Enterprise Utilization; Liquidated Damages.

(i) The LBE Ordinance. The Trustee, shall comply with all the requirements of the Local Business Enterprise and Non-Discrimination in Contracting Ordinance set forth in Chapter 14B of the San Francisco Administrative Code as it now exists or as it may be amended in the future (collectively the "LBE Ordinance"), provided such amendments do not materially increase the Trustee's obligations or liabilities, or materially diminish the Trustee's rights, under this Indenture. Such provisions of the LBE Ordinance are incorporated by reference and made a part of this Indenture as though fully set forth in this section. The Trustee's willful failure to comply with any applicable provisions of the LBE Ordinance is a material breach of the Trustee's obligations under this Indenture and shall entitle the City, subject to any applicable notice and cure provisions set forth in this Indenture, to exercise any of the remedies provided for under this Indenture, under the LBE Ordinance or otherwise available at law or in equity, which remedies shall be cumulative unless this Indenture expressly provides that any remedy is exclusive. In addition, the Trustee shall comply fully with all other applicable local, state and federal laws prohibiting discrimination and requiring equal opportunity in contracting, including subcontracting.

(ii) Compliance and Enforcement If the Trustee willfully fails to comply with any of the provisions of the LBE Ordinance, the rules and regulations implementing the LBE Ordinance, or the provisions of this Indenture pertaining to LBE participation, the Trustee shall be liable for liquidated damages in an amount equal to Trustee's net profit on this Indenture, or 10% of the total amount of this Indenture, or $1,000, whichever is greatest. The Director of the City's Human Rights Commission or any other public official authorized to enforce the LBE Ordinance (separately and collectively, the "Director of HRC") may also impose other sanctions against Trustee authorized in the LBE Ordinance, including declaring the Trustee to be irresponsible and ineligible to contract with the City for a period of up to five years or revocation of the Trustee's LBE certification. The Director of HRC will determine the sanctions to be imposed, including the amount of liquidated damages, after investigation pursuant to Administrative Code §14B.17. By entering into this Indenture, Trustee acknowledges and agrees that any liquidated damages assessed by the Director of the HRC shall be payable to City upon demand. The Trustee further acknowledges and agrees that any liquidated damages assessed may be withheld from any monies due to Trustee on any contract with City. The Trustee agrees to maintain records necessary for monitoring its compliance with the LBE Ordinance for a period of three years following termination or

expiration of this Indenture, and shall make such records available for audit and inspection by the Director of HRC or the Controller upon request.

Section 11.22. Nondiscrimination; Penalties.

(i) Trustee Shall Not Discriminate. In the performance of this Indenture, the Trustee agrees not to discriminate against any employee, City and County or Port employee working with such Trustee or Subcontractor, applicant for employment with such Trustee or Subcontractor, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

(ii) Subcontracts. The Trustee shall incorporate by reference in all subcontracts the provisions of §§12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code (copies of which are available from Purchasing) and shall require all Subcontractors to comply with such provisions. The Trustee's failure to comply with the obligations in this subsection shall constitute a material breach of this Indenture.

(iii) Nondiscrimination in Benefits. The Trustee does not as of the date of this Indenture and will not during the term of this Indenture, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in §12B.2(b) of the San Francisco Administrative Code.

(iv) Condition to Contract. As a condition to this Indenture, the Trustee shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission.

(v) Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Indenture as though fully set forth herein. The Trustee shall comply fully with and be bound by all of the provisions that apply to this Indenture under such Chapters, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, the Trustee

understands that pursuant to §§12B.2(h) and 12C.3(g) of the San Francisco Administrative Code, a penalty of $50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Indenture may be assessed against the Trustee and/or deducted from any payments due Trustee.

Section 11.23. MacBride Principles—Northern Ireland. Pursuant to San Francisco Administrative Code §12F.5, the City urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City urges San Francisco companies to do business with corporations that abide by the MacBride Principles. By signing below, the person executing this agreement on behalf of Trustee acknowledges and agrees that he or she has read and understood this section.

Section 11.24. Tropical Hardwood and Virgin Redwood Ban. Pursuant to §804(b) of the San Francisco Environment Code, the City urges the Trustee not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

Section 11.25. Drug-Free Workplace Policy. The Trustee acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. The Trustee agrees that any violation of this prohibition by the Trustee, its employees, agents or assigns will be deemed a material breach of this Indenture.

Section 11.26. Resource Conservation. Chapter 5 of the San Francisco Environment Code ("Resource Conservation") is incorporated herein by reference. Failure by Trustee to comply with any of the applicable requirements of Chapter 5 will be deemed a material breach of contract.

Section 11.27. Compliance with Americans with Disabilities Act. The Trustee acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a the Trustee, must be accessible to the disabled public. The Trustee shall provide the services specified in this Indenture in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. The Trustee agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Indenture and further agrees that any violation of this prohibition on the part of the Trustee, its employees, agents or assigns will constitute a material breach of this Indenture.

Section 11.28. Sunshine Ordinance. In accordance with San Francisco Administrative Code §67.24(e), contracts, Trustees' bids, responses to solicitations and all other records of communications between City and persons or firms seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or

organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

Section 11.29. Public Access to Meetings and Records. If the Trustee receives a cumulative total per year of at least $250,000 in City funds or City-administered funds and is a non-profit organization as defined in Chapter 12L of the San Francisco Administrative Code, Trustee shall comply with and be bound by all the applicable provisions of that Chapter. By executing this Indneture, the Trustee agrees to open its meetings and records to the public in the manner set forth in §§12L.4 and 12L.5 of the Administrative Code. The Trustee further agrees to make-good faith efforts to promote community membership on its Board of Directors in the manner set forth in §12L.6 of the Administrative Code. The Trustee acknowledges that its material failure to comply with any of the provisions of this paragraph shall constitute a material breach of this Indenture. The Trustee further acknowledges that such material breach of the Indenture shall be grounds for the Port Commission to terminate and/or not renew the Indenture, partially or in its entirety.

Section 11.30. Limitations on Contributions. Through execution of this Indenture, the Trustee acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or the board of a state agency on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Trustee acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of $50,000 or more. The Trustee further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Trustee's board of directors; the Trustee's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in the Trustee; any Subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by the Trustee. Additionally, the Trustee acknowledges that the Trustee must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. The Trustee further agrees to provide to City the names of each person, entity or committee described above.

Section 11.31. Requiring Minimum Compensation for Covered Employees.

(i) The Trustee agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (MCO), as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P), including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 12P are incorporated herein by reference and made a part of this Indenture as though fully set

forth. The text of the MCO is available on the web at www.sfgov.org/olse/mco. A partial listing of some of Trustee's obligations under the MCO is set forth in this Section. The Trustee is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this Section.

(ii) The MCO requires the Trustee to pay the Trustee's employees a minimum hourly gross compensation wage rate and to provide minimum compensated and uncompensated time off. The minimum wage rate may change from year to year and The Trustee is obligated to keep informed of the then-current requirements. Any subcontract entered into by the Trustee shall require the Subcontractor to comply with the requirements of the MCO and shall contain contractual obligations substantially the same as those set forth in this Section. It is the Trustee's obligation to ensure that any Subcontractors of any tier under this Indenture comply with the requirements of the MCO. If any Subcontractor under this Indenture fails to comply, the City may pursue any of the remedies set forth in this Section against Trustee.

(iii) The Trustee shall not take adverse action or otherwise discriminate against an employee or other person for the exercise or attempted exercise of rights under the MCO. Such actions, if taken within 90 days of the exercise or attempted exercise of such rights, will be rebuttably presumed to be retaliation prohibited by the MCO.

(iv) The Trustee shall maintain employee and payroll records as required by the MCO. If the Trustee fails to do so, it shall be presumed that the Trustee paid no more than the minimum wage required under State law.

(v) The City is authorized to inspect Trustee's job sites and conduct interviews with employees and conduct audits of the Trustee

(vi) The Trustee's commitment to provide the Minimum Compensation is a material element of the City's consideration for this Indenture. The City in its sole discretion shall determine whether such a breach has occurred. The City and the public will suffer actual damage that will be impractical or extremely difficult to determine if the Trustee fails to comply with these requirements. Trustee agrees that the sums set forth in Section 12P.6.1 of the MCO as liquidated damages are not a penalty, but are reasonable estimates of the loss that the City and the public will incur for Trustee's noncompliance. The procedures governing the assessment of liquidated damages shall be those set forth in Section 12P.6.2 of Chapter 12P.

(vii) The Trustee understands and agrees that if it fails to comply with the requirements of the MCO, the City shall have the right to pursue any rights or remedies available under Chapter 12P (including liquidated damages), under the terms of the contract, and under applicable law. If, within 30 days after receiving written notice of a breach of this Indenture for violating the MCO, Trustee fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Trustee fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the City shall have the right to pursue any rights or remedies

available under applicable law, including those set forth in Section 12P.6(c) of Chapter 12P. Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.

(viii) The Trustee represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the MCO.

(ix) If the Trustee is exempt from the MCO when this Indenture is executed because the cumulative amount of agreements with this department for the fiscal year is less than $25,000, but Trustee later enters into an agreement or agreements that cause Trustee to exceed that amount in a fiscal year, Trustee shall thereafter be required to comply with the MCO under this Indenture. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between the Trustee and this department to exceed $25,000 in the fiscal year.

Section 11.32. Requiring Health Benefits for Covered Employees.

The Trustee agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of Chapter 12Q are incorporated by reference and made a part of this Indenture as though fully set forth herein. The text of the HCAO is available on the web at www.sfgov.org/olse. Capitalized terms used in this Section and not defined in this Indenture shall have the meanings assigned to such terms in Chapter 12Q.

(i) For each Covered Employee, Trustee shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Trustee chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission..

(ii) Notwithstanding the above, if the Trustee is a small business as defined in Section 12Q.3(e) of the HCAO, it shall have no obligation to comply with part (a) above.

(iii) Trustee's failure to comply with the HCAO shall constitute a material breach of this agreement. City shall notify Trustee if such a breach has occurred. If, within 30 days after receiving City's written notice of a breach of this Indenture for violating the HCAO, Trustee fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Trustee fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in 12Q.5.1 and 12Q.5(f)(1-6). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.

(iv) Any Subcontract entered into by Trustee shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Trustee

shall notify City's Office of Contract Administration when it enters into such a Subcontract and shall certify to the Office of Contract Administration that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Each Trustee shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the City may pursue the remedies set forth in this Section against Trustee based on the Subcontractor's failure to comply, provided that City has first provided Trustee with notice and an opportunity to obtain a cure of the violation.

(v) Trustee shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to Trustee's noncompliance or anticipated noncompliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

(vi) Trustee represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

(vii) Trustee shall maintain employee and payroll records in compliance with the California Labor Code and Industrial Welfare Commission orders, including the number of hours each employee has worked on the City Contract.

(viii) Trustee shall keep itself informed of the current requirements of the HCAO.

(ix) Trustee shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

(x) Trustee shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least ten business days to respond.

(xi) Trustee shall allow City to inspect Trustee's job sites and have access to Trustee's employees in order to monitor and determine compliance with HCAO.

(xii) City may conduct random audits of Trustee to ascertain its compliance with HCAO. Trustee agrees to cooperate with City when it conducts such audits.

(xiii) If Trustee is exempt from the HCAO when this Indenture is executed because its amount is less than $25,000 ($50,000 for nonprofits), but Trustee later enters into an agreement or agreements that cause Trustee's aggregate amount of all agreements with City to reach $75,000, all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the

cumulative amount of agreements between Trustee and the City to be equal to or greater than $75,000 in the fiscal year.

Section 11.33. Prohibition on Political Activity with City Funds. In accordance with San Francisco Administrative Code Chapter 12.G, Trustee may not participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure (collectively, "Political Activity") in the performance of the services provided under this Indenture. Trustee agrees to comply with San Francisco Administrative Code Chapter 12.G and any implementing rules and regulations promulgated by the City's Controller. The terms and provisions of Chapter 12.G are incorporated herein by this reference. In the event Trustee violates the provisions of this section, the City may, in addition to any other rights or remedies available hereunder, (i) terminate this Indenture, and (ii) prohibit Trustee from bidding on or receiving any new City contract for a period of two (2) years. The Controller will not consider Trustee's use of profit as a violation of this section.

Section 11.34. Preservative-treated Wood Containing Arsenic. Trustee may not purchase preservative-treated wood products containing arsenic in the performance of this Indenture unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under Section 1304 of the Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Trustee may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of the Environment. This provision does not preclude Trustee from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

Section 11.35. Compliance with Laws. Trustee shall keep itself fully informed of the City's Charter, codes, ordinances and regulations of the City and of all state, and federal laws in any manner affecting the performance of this Indenture, and must at all times comply with such local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time.

Section 11.36. Protection of Private Information. Trustee has read and agrees to the terms set forth in San Francisco Administrative Code Sections 12M.2, "Nondisclosure of Private Information," and 12M.3, "Enforcement" of Administrative Code Chapter 12M, "Protection of Private Information," which are incorporated herein as if fully set forth. Trustee agrees that any failure of Contactor to comply with the requirements of Section 12M.2 of this Chapter shall be a material breach of the Contract. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate the Contract, bring a false claim action against the Trustee pursuant to Chapter 6 or Chapter 21 of the Administrative Code, or debar the Trustee.

Section 11.37. Graffiti Removal. Graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with the City's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City and County and its residents, and to prevent the further spread of graffiti. Trustee shall remove all graffiti from any real property owned or leased by Trustee in the City and County of San Francisco within forty eight (48) hours of the earlier of Trustee's (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. This section is not intended to require a Trustee to breach any lease or other agreement that it may have concerning its use of the real property. The term "graffiti" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including by way of example only and without limitation, signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and which is visible from the public right-of-way. "Graffiti" shall not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the San Francisco Public Works Code, the San Francisco Planning Code or the San Francisco Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (California Civil Code Sections 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.).

Any failure of the Trustee to comply with this section of this Indenture shall constitute an Event of Default of this Indenture.

Section 11.38. Food Service Waste Reduction Requirements. Effective June 1, 2007, the Trustee agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Indenture as though fully set forth. This provision is a material term of this Indenture. By entering into this Indenture, Trustee agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Trustee agrees that the sum of one hundred dollars ($100) liquidated damages for the first breach, two hundred dollars ($200) liquidated damages for the second breach in the same year, and five hundred dollars ($500) liquidated damages for subsequent breaches in the same year is reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Indenture was made. Such amount shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Trustee's failure to comply with this provision.

Section 11.39. Cooperative Drafting. This Indenture has been drafted through a cooperative effort of both parties, and both parties have had an opportunity to have the Indenture reviewed and revised by legal counsel. No party shall be considered the drafter of this Indenture, and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Indenture.

Section 11.40. Execution in Counterparts. This Indenture may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Indenture by their officers thereunto duly authorized as of the day and year first written above.

PORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO

_____

Executive Director

ATTEST:

_____

Secretary

[TRUSTEE], as Trustee

_____

Authorized Officer

ATTACHMENT 5

FIRST SUPPLEMENT TO INDENTURE OF TRUST

by and between the

PORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO

and

as Trustee

Dated as of _____ 1, 2009

PORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO REVENUE BONDS, SERIES 2009A (Non-AMT Tax-Exempt)

and

PORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO REVENUE BONDS, SERIES 2009B (Taxable)

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FORM OF SERIES 2009 BOND....EXHIBIT A

FIRST SUPPLEMENT TO INDENTURE OF TRUST

This FIRST SUPPLEMENT TO INDENTURE OF TRUST, dated as of _____1, 2009 (the "First Supplemental Indenture"), by and between the PORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO (the "Commission"), duly constituted and established under Sections 4.100 et seq. of the Charter of the City and County of San Francisco and [TRUSTEE], a state banking corporation, duly organized under the laws of the State of California, as trustee (the "Trustee");

WITNESSETH:

WHEREAS, the Commission has entered into an agreement dated as of January 24, 1969 (the "State Agreement") pursuant to which the State of California (the "State") has transferred ownership of the Port of San Francisco to the City and County of San Francisco (the "City"); and

WHEREAS, under Section 4.114 of the Charter of the City and County of San Francisco (the "Charter"), the Commission has under its management, supervision, operation and control all real and personal property transferred under State of California Statutes 1968, Chapter 1333, and of all other properties wherever situated as it may acquire or which may be placed under its management, supervision or control (the "Port Area"); and

WHEREAS, under Section 9.107 of the Charter and Ordinance No. _____, adopted by the Board of Supervisors of the City on _____, 2009 and signed by the Mayor on _____, 2009, and codified as Chapter 43, Article XII of the San Francisco Administrative Code, the Commission has the authority to issue port revenue bonds for the purpose of acquiring, constructing, improving or developing ports or port facilities under its jurisdiction and port revenue bonds under such terms and conditions as the Commission may authorize by resolution; and

WHEREAS, the Commission has authorized and issued the Series 2009 Bonds pursuant to Resolution No.____ of the Commission, adopted on _____, 2009 (the "Port Commission Resolution") and the Board of Supervisors of the City has approved the Series 2009 Bonds pursuant to Resolution No. _____, adopted on _____, 2009 and signed by the Mayor on _____, 2009 (the "City Resolution").

WHEREAS, the Commission has entered into an Indenture of Trust, dated as of the date hereof (the "Master Indenture"), by and between the Commission and the Trustee, which provides for the security and issuance of one or more series of port revenue bonds (the "Bonds"); and

WHEREAS, the Commission is entering into this First Supplemental Indenture in order to provide for the terms of two series of Bonds to be designated as "Revenue Bonds, Series 2009A (Non-AMT Tax-Exempt)" (the "Series 2009A Bonds") and "Revenue Bonds, Series 2009B (Taxable)" (the "Series 2009B Bonds") (collectively, the "Series 2009 Bonds"), which will be issued under and in accordance with the Charter and the Act and pursuant to the

terms and conditions set forth in the Master Indenture and herein, and for the purpose of financing the Series 2009 Project.

NOW, THEREFORE, THIS FIRST SUPPLEMENTAL INDENTURE WITNESSETH that in order to secure the payment of the Principal Amount of, premium, if any, and the interest on the Series 2009 Bonds delivered under the Master Indenture and hereunder and to secure the performance of the terms, conditions, covenants, agreements, trusts, uses and purposes hereinafter expressed, and in consideration of the premises and covenants herein contained and of the purchase and acceptance of the Series 2009 Bonds by the Owners thereof, and for other valuable consideration, the receipt of which is hereby acknowledged, the Commission does hereby agree and covenant with the Trustee for the benefit of the respective Owners, from time to time, of the Series 2009 Bonds, as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. The capitalized terms used in this First Supplemental Indenture shall have the meanings assigned to such terms in the Master Indenture, unless otherwise defined below or elsewhere in this First Supplemental Indenture or unless a different meaning clearly applies from the context in which such term is used herein:

"Depository" shall mean (a) initially, DTC, and (b) any other securities depository acting as Depository pursuant to Section 2.06 hereof.

"Depository System Participant" shall mean any participant in the Depository's book-entry system.

"DTC" shall mean The Depository Trust Company, New York, New York, and its successors and assigns.

"First Supplemental Indenture" shall mean this First Supplement to Indenture of Trust, dated as of _____ 1, 2009, by and between the Commission and the Trustee.

"Master Indenture" shall mean the Indenture of Trust, dated as of ____1, 2009, by and between the Commission and the Trustee.

"Nominee" shall mean "CEDE & CO." or any successor nominee designated by the Depository pursuant to the terms of the Indenture.

"Series 2009 Bonds" shall mean collectively the Port Commission of the City and County of San Francisco Revenue Bonds, Series 2009A (Non-AMT Tax-Exempt) and the Port Commission of the City and County of San Francisco Revenue Bonds, Series 2009B (Taxable).

"Series 2009A Bonds" shall mean the $_____ aggregate principal amount of Port Commission of the City and County of San Francisco Revenue Bonds, Series 2009A (Non-AMT Tax-Exempt).

"Series 2009B Bonds" shall mean the $_____ aggregate principal amount of Port Commission of the City and County of San Francisco Revenue Bonds, Series 2009B (Taxable).

"Series 2009 Delivery Costs Fund" shall mean the fund by that name established pursuant to Section 2.05(b) hereof.

"Series 2009 Interest Payment Date" shall mean [June 1 and December 1] of each year, commencing [June 1, 2010].

"Series 2009 Payment Date" means each Series 2009 Interest Payment Date and Series 2009 Principal Payment Date.

"Series 2009 Principal Payment Date" shall mean [December 1 of each year, commencing December 1, 20__.]

"Series 2009 Project" shall mean _____.

"Series 2009 Project Costs Fund" shall mean that certain fund established pursuant to section 2.04(b) hereof.

"Series 2009 Record Date" shall mean the close of business on the fifteenth day of the month preceding each Series 2009 Interest Payment Date, whether or not such fifteenth day is a Business Day.

"Series 2009 Reserve Account" shall mean the Series 2009 Reserve Account in the Reserve Fund established pursuant to Section 3.02 hereof.

"Series 2009 Reserve Requirement" shall mean, as of any date of calculation, an amount equal to [Maximum Annual Debt Service on combined, aggregate Debt Service on such Bonds.] To the extent a future Series of Bonds is designated in a Supplemental Indenture to benefit from the Series 2009 Reserve Account, the foregoing definition shall be revised in such Supplemental Indenture to take into account such Series of Bonds and the requirements of the Code.

ARTICLE II

TERMS OF SERIES 2009 BONDS

Section 2.01. Authorization and Purpose of Series 2009 Bonds. The Commission hereby authorizes the issuance of the Series 2009 Bonds for the purpose of providing moneys to finance the Series 2009 Project. The parties hereto hereby acknowledge and agree that the Series 2009 Bonds constitute "Bonds" as defined in the Master Indenture and that the Series 2009 Bonds are secured on a parity with any additional Series of Bonds which may hereafter be issued under the Indenture.

Section 2.02. Terms of the Series 2009 Bonds. (a) General. The Series 2009 Bonds authorized to be issued by the Commission under and subject to the terms of the Indenture and the Charter and the Act shall be issued in two Series: a series designated the "Port Commission of the City and County of San Francisco Revenue Bonds, Series 2009A (Non-AMT

Tax Exempt)" (the "Series 2009A Bonds") and a series designated the "Port Commission of the City and County of San Francisco Revenue Bonds, Series 2009B (Taxable)" (the "Series 2009B Bonds"). As further provided herein, the Series 2009A Bonds shall be issued as tax-exempt obligations and the Series 2009B Bonds shall be issued as taxable obligations. The Series 2009 Bonds shall be issued in the aggregate principal amount of _____ Dollars ($_____). The Series 2009 Bonds shall be dated _____, 2009, shall bear interest at the rates set forth herein (calculated on the basis of a 360 day year comprised of twelve 30 day months), shall be issued as fully registered bonds in authorized denominations of $5,000 or any integral multiple thereof, shall be numbered in such manner as the Trustee may deem appropriate so long as each Series 2009 Bond receives a distinctive number and shall mature, subject to the right of prior redemption in whole or in part, as described herein, and become payable in the amounts and on the dates as provided herein.

(b) Maturity Schedule of Series 2009A Bonds. The Series 2009A Bonds shall bear interest at the rates per annum, payable on each Series 2009 Interest Payment Date, and be payable as to principal on each Series 2009 Principal Payment Date in each of the years and in the amounts indicated as follows:

Series 2009A Bonds

Year (____1)	Principal	Rate

(c) Maturity Schedule of Series 2009B Bonds. The Series 2009B Bonds shall bear interest at the rates per annum, payable on each Series 2009 Interest Payment Date, and be payable as to principal on each Series 2009 Principal Payment Date in each of the years and in the amounts indicated as follows:

Series 2009B Bonds

Year (____1)	Principal	Rate

(d) Payment of Series 2009 Bonds. The Series 2009 Bonds shall bear interest from the Series 2009 Interest Payment Date immediately preceding the date of authentication thereof unless (i) the date of authentication thereof is prior to the first regular Series 2009 Record Date in which event from the dated date of such Series 2009 Bond, or (ii) the date of authentication thereof is a Series 2009 Interest Payment Date, in which event from that Series 2009 Interest Payment Date, or (iii) the date of authentication thereof is after a regular Series 2009 Record Date but before the following Series 2009 Interest Payment Date, in which event it shall bear interest from such Series 2009 Interest Payment Date.

Payment of interest on the Series 2009 Bonds shall be paid by check or draft mailed by the Trustee on the Series 2009 Interest Payment Date via first class mail to the Holders at their addresses shown on the registration books of the Trustee as of the close of business on the Series 2009 Record Date with respect to such Series 2009 Interest Payment Date; provided that payment of interest may be paid by federal wire transfer to an account in the United States designated by any Holder of Series 2009 Bonds in the aggregate principal amount of $1,000,000 or more, upon provision of a written notice received by the Trustee prior to the applicable Series 2009 Record Date. Any such written notice shall remain in effect until terminated or changed by subsequent written notice of the Holder.

Interest shall be paid notwithstanding the cancellation of any Series 2009 Bonds upon any exchange or registration of transfer thereof subsequent to the Series 2009 Record Date and prior to such Series 2009 Interest Payment Date.

The Principal Amount of and redemption premiums, if any, on the Series 2009 Bonds and payments of interest due at maturity or earlier redemption of the Series 2009 Bonds, shall be payable upon the surrender thereof at the Corporate Trust Office of the Trustee. The Principal Amount of and redemption premiums, if any, and interest on the Series 2009 Bonds shall be paid in lawful money of the United States of America.

(e) Limitations on Transfer and Exchange of Series 2009 Bonds. The Commission and the Trustee shall not be required to issue, register the transfer of, or exchange (i) any Series 2009 Bond during the period beginning on the fifteenth day of the month preceding each Series 2009 Interest Payment Date and ending on such Series 2009 Interest Payment Date,

during the fifteen (15) days preceding the selection of Series 2009 Bonds for redemption, on any date on which notice of redemption is scheduled to be mailed, on any redemption date, or (ii) any Series 2009 Bond selected for redemption.

(f) Redemption of the Series 2009 Bonds. (i) Optional Redemption of Series 2009A Bonds. The Series 2009 Bonds scheduled to mature on and after _____ 1, 20__ shall be subject to redemption as a whole or in part among such maturities as designated by the Commission (and by lot within any one maturity) prior to their respective maturity dates, at the option of the Commission, on any date on or after [_____ 1, 20__], from funds derived by the Commission from any legally available source, at the following redemption prices (expressed as a percentage of the principal amount of the Series 2009A Bonds called for redemption) together with interest accrued thereon to the date of redemption:

Redemption Date	Redemption Price

(ii) Optional Redemption of Series 2009B Bonds. The Series 2009B Bonds scheduled to mature on and after _____ 1, 20__ shall be subject to redemption as a whole or in part among such maturities as designated by the Commission (and by lot within any one maturity) prior to their respective maturity dates, at the option of the Commission, on any date on or after [_____ 1, 20__], from funds derived by the Commission from any legally available source, at the following redemption prices (expressed as a percentage of the principal amount of the Series 2009B Bonds called for redemption) together with interest accrued thereon to the date of redemption:

Redemption Date	Redemption Price

(g) Mandatory Sinking Fund Payments for Series 2009 Bonds. (i) The Series 2009A Bonds maturing on [_____ 1, 20__] (the "Series 2009A Term Bonds") shall also be subject to mandatory redemption in part by lot prior to their maturity date, on [___ 1, commencing ____ 1, 20__] solely from money which has been deposited into the Series 2009 Principal Account in amounts and upon the dates hereby established for such Series 2009A Term Bonds, as follows:

Series 2009A Term Bonds Maturing on[___ 1, 20__]

Year ([___] 1)	Mandatory Sinking Fund Payments

_____
*Maturity

(ii) The Series 2009B Bonds maturing on [_____ 1, 20__] (the "Series 2009B Term Bonds") shall also be subject to mandatory redemption in part by lot prior to their maturity date, on [___ 1, commencing ____ 1, 20__] solely from money which has been deposited into the Series 2009 Principal Account in amounts and upon the dates hereby established for such Series 2009B Term Bonds, as follows:

Series 2009B Term Bonds Maturing on[___ 1, 20__]

Year ([___] 1)	Mandatory Sinking Fund Payments

_____
*Maturity

Section 2.03. Forms of Series 2009 Bonds. The Series 2009 Bonds and the forms of authentication and registration endorsement and the assignment to appear thereon shall be substantially in the forms attached hereto as Exhibit A, with necessary or appropriate variations, omission and insertions as permitted or required by the Indenture.

Section 2.04. Application of Proceeds of Sale of the Series 2009 Bonds; Establishment of Series 2009 Project Costs Fund and Series 2009 Delivery Costs Fund.

(a) Application of Proceeds. Upon receipt of payment of the purchase price for the Series 2009 Bonds from the original purchaser thereof, the Trustee shall set aside and deposit such amount, together with any other available amounts, as follows:

(1) The Trustee shall transfer to the Commission for deposit in the Series 2009 Project Costs Fund established pursuant to Section 2.04(b) hereof the sum equal to $_____;

(2) The Trustee shall deposit in the Series 2009 Reserve Account the sum equal to $_____, which is equal to the initial Series 2009 Reserve Requirement;

(3) The Trustee shall deposit in the Series 2009 Delivery Costs Fund established pursuant to Section 2.04(c) hereof such moneys to be used to pay Delivery Costs with respect to the Series 2009 Bonds as directed by a certificate of the Commission.

(b) Series 2009 Project Costs Fund. The Commission shall establish a Series 2009 Project Costs Fund for the deposit and retention of a portion of the Series 2009 Bond proceeds held pending disbursement thereof. The Commission shall disburse amounts in the Series 2009 Project Costs Fund for Project Costs. For purposes of tracking the proceeds of the Series 2009A Bonds and the earnings thereon, the Series 2009A Project Costs Account is hereby created within the Series 2009 Project Costs Fund and shall be for the proceeds of the Series 2009A Bonds in the amount of $_____ upon receipt by the Commission of the amounts provided in Section 2.04(a)(1).

(c) Series 2009 Delivery Costs Fund. The Trustee shall establish a Series 2009 Delivery Costs Fund for the deposit and retention of a portion of the Series 2009 Bond proceeds held pending disbursement thereof. The Trustee shall disburse amounts in the Series 2009 Delivery Costs Fund upon receipt from the Commission of a requisition setting out the payee, the amount of such disbursement and the purpose of such disbursement, including a statement that said disbursement was incurred for Delivery Costs. Upon the earlier of 180 days after initial delivery of the Series 2009 Bonds or receipt by the Trustee of a certificate of the Commission that all Delivery Costs with respect to Series 2009 Bonds have been paid, the Trustee shall transfer remaining amounts in the Series 2009 Delivery Costs Fund to the Series 2009 Interest Account. For purposes of tracking the proceeds of the Series 2009A Bonds and the earnings thereon, the Series 2009A Delivery Costs Account is hereby created within the Series 2009 Delivery Costs Fund and shall be for the proceeds of the Series 2009A Bonds in the amount of $_____ upon receipt by the Commission of the amounts provided in Section 2.04(a)(3).

Section 2.05. Book-Entry Provisions.

(a) Original Delivery. The Commission may provide prior to the date of delivery of the Series 2009 Bonds, that the Series 2009 Bonds may be initially delivered in book-entry form pursuant to this Section 2.06.

The Series 2009 Bonds initially delivered in book-entry form shall be initially delivered in the form of a separate single fully registered Series 2009 Bond without coupons (which may be typewritten) for each maturity of the Series 2009 Bonds. Upon initial delivery, the ownership of each such Series 2009 Bond shall be registered by the Trustee in the name of the Nominee. Except as provided in subsection (c) below, the ownership of all such Outstanding Series 2009 Bonds shall be registered in the name of the Nominee on the registration books of the Registrar.

With respect to Series 2009 Bonds the ownership of which shall be registered in the name of the Nominee, the Commission and the Trustee shall have no responsibility or obligation to any Depository System Participant or to any person on behalf of which the Commission holds an interest in the Series 2009 Bonds. Without limiting the generality of the immediately preceding sentence, the Commission and the Trustee shall have no responsibility or obligation with respect to (i) the accuracy of the records of the Depository, the Nominee or any Depository System Participant with respect to any ownership interest in the Series 2009 Bonds, (ii) the delivery to any Depository System Participant or any other person, other than a Series 2009 Bondholder as shown in the Registration Books, of any notice with respect to the Series 2009 Bonds, including any notice of redemption, (iii) the selection by the Depository of the

beneficial interests in the Series 2009 Bonds to be redeemed in the event the Commission elects to redeem the Series 2009 Bonds in part, (iv) the payment to any Depository System Participant or any other person, other than a Series 2009 Bondholder as shown in the Registration Books, of any amount with respect to principal, premium, if any, or interest on the Series 2009 Bonds or (v) any consent given or other action taken by the Depository as Holder of the Series 2009 Bonds. The Commission and the Trustee may treat and consider the person in whose name each Series 2009 Bond is registered as the absolute owner of such Series 2009 Bond for the purpose of payment of principal, premium and interest on such Series 2009 Bond, for the purpose of giving notices of prepayment and other matters with respect to such Series 2009 Bond, for the purpose of registering transfers of ownership of such Series 2009 Bond, and for all other purposes whatsoever. The Trustee shall pay the principal of and interest and premium, if any, on the Series 2009 Bonds only to the respective Holders or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge all obligations with respect to payment of principal of and interest and premium, if any, on the Series 2009 Bonds to the extent of the sum or sums so paid. No person other than a Series 2009 Bondholder shall receive a Series 2009 Bond evidencing the obligation of the Commission to make payments of principal, interest and premium, if any, pursuant to this Indenture. Upon delivery by the Depository to the Nominee of written notice to the effect that the Depository has determined to substitute a new Nominee in its place, and subject to the provisions herein with respect to Record Dates, such new nominee shall become the Nominee hereunder for all purposes; and upon receipt of such a notice the Commission shall promptly deliver a copy of the same to the Trustee.

(b) Representation Letter. In order to qualify the Series 2009 Bonds for the Depository's book-entry system, the Commission and the Trustee shall execute and deliver to such Depository a letter representing such matters as shall be necessary to so qualify the Series 2009 Bonds. The execution and delivery of such letter shall not in any way limit the provisions of subsection (a) above or in any other way impose upon the Commission or the Trustee any obligation whatsoever with respect to persons having interests in the Series 2009 Bonds other than the Series 2009 Bondholders. The Trustee agrees to comply with all provisions in such letter with respect to the giving of notices thereunder by the Trustee. In addition to the execution and delivery of such letter, the Commission may take any other actions, not inconsistent with this Indenture, to qualify the Series 2009 Bonds for the Depository's book-entry program.

(c) Transfers Outside Book-Entry System. In the event that either (i) the Depository determines not to continue to act as Depository for the Series 2009 Bonds, or (ii) the Commission determines to terminate the Depository as such, then the Commission shall thereupon discontinue the book-entry system with such Depository. In such event, the Depository shall cooperate with the Commission and the Trustee in the issuance of replacement Series 2009 Bonds by providing the Trustee with a list showing the interests of the Depository System Participants in the Series 2009 Bonds, and by surrendering the Series 2009 Bonds, registered in the name of the Nominee, to the Trustee on or before the date such replacement Series 2009 Bonds are to be issued. The Depository, by accepting delivery of the Series 2009 Bonds, agrees to be bound by the provisions of this subsection (c). If, prior to the termination of the Depository acting as such, the Commission fails to identify another Securities Depository to replace the Depository, then the Series 2009 Bonds shall no longer be required to be registered in the name of the Nominee, but shall be registered in whatever name or names the Holders transferring or exchanging Series 2009 Bonds shall designate, in accordance with the provisions

of Article II of the Master Indenture. Prior to its termination, the Depository shall furnish the Trustee with the names and addresses of the Depository System Participants and respective ownership interests thereof.

(d) Payments to the Nominee. Notwithstanding any other provision of the Indenture to the contrary, so long as any Series 2009 Bond is registered in the name of the Nominee, all payments with respect to principal of and interest and premium, if any, on such Series 2009 Bond and all notices with respect to such Series 2009 Bond shall be made and given, respectively, as provided in the letter described in subsection (b) of this Section 2.06 or as otherwise instructed by the Depository.

ARTICLE III

SERIES 2009 INTEREST AND PRINCIPAL ACCOUNTS; RESERVE FUND; SERIES 2009 REBATE FUND; EARNINGS ON DEBT SERVICE FUND AND RESERVE FUND

Section 3.01. Series 2009 Interest and Principal Accounts. Moneys accumulated in the Enterprise Fund shall be transferred by the Commission to the Trustee for deposit in the Debt Service Fund as provided in Section 5.05 of the Master Indenture and this Section 3.01; provided, that the following accounts are created in the Debt Service Fund held by the Trustee with respect to the Series 2009 Bonds; provided further, however, that to the extent that deposits have been made in any of the accounts referred to below from the proceeds of the sale of the Series 2009 Bonds or otherwise, the deposits below need not be made:

(a) Series 2009 Interest Account. On or before the Business Day prior to each Series 2009 Interest Payment Date, the Commission shall transfer from the Enterprise Fund to the Trustee for deposit in the Series 2009 Interest Account within the Debt Service Fund (which account is hereby created), the interest to become due on the Series 2009 Bonds on such Series 2009 Interest Payment Date; provided that the Commission need not transfer any moneys at such time as the balance in said Series 2009 Interest Account shall be equal to the aggregate amount of interest becoming due and payable on the then Outstanding Series 2009 Bonds on the next succeeding Series 2009 Interest Payment Date. The obligation to make the foregoing transfers shall be on a parity with the obligation to fund any interest accounts henceforth created under the Indenture with respect to any additional Series of Bonds which may hereafter be issued under the Indenture, without preference or priority, and in the event of any insufficiency of such moneys ratably without any discrimination or preference.

(b) Series 2009 Principal Account. On or before the Business Day prior to each Series 2009 Principal Payment Date, the Commission shall transfer from the Enterprise Fund to the Trustee for deposit in the Series 2009 Principal Account within the Debt Service Fund (which account is hereby created), the Principal Amount to become due on the Series 2009 Bonds on such Series 2009 Principal Payment Date; provided that the Commission need not transfer any moneys at such time as the balance in said Series 2009 Principal Account shall be equal to the aggregate Principal Amount becoming due and payable on the then Outstanding Series 2009 Bonds on the next succeeding Series 2009 Principal Payment Date. The obligation to make the foregoing transfers shall be on a parity with the obligation to fund any principal accounts henceforth created under the Indenture with respect to any additional Series of Bonds

which may hereafter be issued under the Indenture, without preference or priority, and in the event of any insufficiency of such moneys ratably without any discrimination or preference.

(c) Reserve Fund. Immediately after making the transfers described in paragraphs (a) and (b) above, transfers shall be made by the Commission to the Trustee from the Enterprise Fund to the Series 2009 Reserve Account, on or before the first Business Day of each month, commencing ___, 20____ in an amount equal to that sum, if any, necessary to restore the Series 2009 Reserve Account to an amount equal to the Series 2009 Reserve Requirement. If provided for in a Supplemental Indenture, the obligation to make the foregoing transfers shall be on a parity with the obligation to fund any separate reserve accounts within the Series 2009 Reserve Account henceforth created under the Indenture with respect to any additional Series of Bonds which may hereafter be issued under the Indenture, without preference or priority, and in the event of any insufficiency of such moneys ratably without any discrimination or preference.

Section 3.02. Reserve Fund. The Series 2009 Reserve Account in the Reserve Fund is hereby established with the Trustee. The Reserve Requirement for the Series 2009 Bonds shall be the Series 2009 Reserve Requirement. The Series 2009 Reserve Account shall benefit only the Series 2009 Bonds and any additional Series of Bonds designated in a Supplemental Indenture. The amounts on deposit in the Series 2009 Reserve Account shall secure on a parity basis the Series 2009 Bonds and any additional Series of Bonds designated in a Supplemental Indenture. If on any Series 2009 Payment Date the amount on deposit in the Debt Service Fund is not sufficient to pay interest on and principal to become due on the Series 2009 Bonds on such Series 2009 Payment Date (or any Series of Bonds designated in a Supplemental Indenture on its Payment Dates), then the Trustee shall withdraw the amount of any such deficiency from the Series 2009 Reserve Account and deposit such amount in the Debt Service Fund. All money on deposit in the Series 2009 Reserve Account in excess of the Series 2009 Reserve Requirement shall be transferred to the Commission or to such account as the Commission may designate; and for this purpose all investments in the Series 2009 Reserve Account shall be valued monthly, at the lower of purchase price or the current market value of such investments (inclusive of accrued interest). For purposes of accounting for the proceeds of the Series 2009A Bonds, the Series 2009A Reserve Sub-Account is hereby created within the Series 2009 Reserve Account and shall be funded from the proceeds of the Series 2009A Bonds in the amount of $_____ upon receipt by the Trustee of the amount provided in section 2.04(a)(2).

Section 3.03. Rebate Fund.

(a) General. The Trustee shall establish a special fund designated the "Series 2009A Bonds Rebate Fund" (the "Rebate Fund"). All amounts at any time on deposit in the Rebate Fund shall be held by the Trustee in trust, to the extent required to satisfy the requirement to make rebate payments to the United States (the "Rebate Requirement") pursuant to Section 148 of the Code and the Treasury Regulations promulgated thereunder (the "Treasury Regulations"). The Commission may by Supplemental Indenture establish additional funds or accounts for purposes of satisfying the Rebate Requirement with respect to any other Outstanding Bonds. Amounts on deposit in the Rebate Fund shall be free and clear of any lien under the Indenture and shall be governed by this Section 3.03 and Section 6.07 of the Master Indenture and by the Tax Certificate relating to the Series 2009 Bonds. The Trustee shall be deemed conclusively to have complied with the Rebate Requirement if it follows the directions

of the Commission, and shall have no independent responsibility to, or liability resulting from its failure to, enforce compliance by the Commission with the Rebate Requirement.

(b) Deposits.

(i) Within 45 days of the end of each Bond Year (as such term is defined in the Tax Certificate), (1) the Commission shall calculate or cause to be calculated with respect to the Series 2009A Bonds the amount that would be considered the "rebate amount" within the meaning of Section 1.148-3 of the Treasury Regulations, using as the "computation date" for this purpose the end of such Bond Year, and (2) upon the Commission's written direction, the Trustee shall deposit to the Rebate Fund from deposits from the Commission, if and to the extent required, amounts sufficient to cause the balance in the Rebate Fund to be equal to the "rebate amount" so calculated.

(ii) The Trustee shall not be required to deposit any amount to the Rebate Fund in accordance with the preceding sentence if the amount on deposit in the Rebate Fund prior to the deposit required to be made under this subsection (b) equals or exceeds the "rebate amount" calculated in accordance with the preceding sentence. Such excess may be withdrawn from the Rebate Fund to the extent permitted under subsection (g) of this Section 3.03.

(iii) The Commission shall not be required to calculate the "rebate amount," and the Trustee shall not be required to make deposit of any amount to the Rebate Fund in accordance with this subsection (b), with respect to all or a portion of the proceeds of the Series 2009A Bonds (including amounts treated as proceeds of the Series 2009A Bonds) (1) to the extent such proceeds satisfy the expenditure requirements of Section 148(f)(4)(B) or Section 148(f)(4)(C) of the Code, whichever is applicable, and otherwise qualify for the exception to the Rebate Requirement pursuant to whichever of said sections is applicable, (2) to the extent such proceeds are subject to an election by the Commission under Section 148(f)(4)(C)(vii) of the Code to pay a 1½% penalty in lieu of arbitrage rebate in the event any of the percentage expenditure requirements of Section 148(f)(4)(C) are not satisfied, or (3) to the extent such proceeds qualify for the exception to arbitrage rebate under Section 148(f)(4)(A)(ii) of the Code for amounts in a "bona fide debt service fund." In such event, and with respect to such amounts, the Commission shall provide written direction to the Trustee that the Trustee shall not be required to deposit any amount to the Rebate Fund in accordance with this subsection (b).

(c) Withdrawal Following Payment of Bonds. Any funds remaining in the Rebate Fund after payment of all the Series 2009 Bonds and any amounts described in paragraph (2) of subsection (d) of this Section 3.03, or provision made therefor satisfactory to the Trustee, including accrued interest and payment of any applicable fees to the Trustee, shall be withdrawn by the Trustee and remitted to the Commission.

(d) Withdrawal for Payment of Rebate. Upon the Commission's written direction, but subject to the exceptions contained in subsection (b) of this Section 3.03 to the

requirement to calculate the "rebate amount" and make deposits to the Rebate Fund, the Trustee shall pay to the United States, from amounts on deposit in the Rebate Fund,

(1) not later than 60 days after the end of (i) the fifth Bond Year, and (ii) each fifth Bond Year thereafter, an amount that, together with all previous rebate payments, is equal to at least 90% of the "rebate amount" calculated as of the end of such Bond Year in accordance with Section 1.148 3 of the Treasury Regulations; and

(2) not later than 60 days after the payment of all Series 2009A Bonds, an amount equal to 100% of the "rebate amount" calculated as of the date of such payment (and any income attributable to the "rebate amount" determined to be due and payable) in accordance with Section 1.148 3 of the Treasury Regulations.

(e) Rebate Payments. Each payment required to be made pursuant to subsection (d) of this Section 3.03 shall be made to the Internal Revenue Service Center, Ogden, Utah 84201 on or before the date on which such payment is due, and shall be accompanied by Internal Revenue Service Form 8038-T, which shall be completed by the arbitrage rebate consultant for execution by the Commission and provided to the Trustee.

(f) Deficiencies in the Rebate Fund. In the event that, prior to the time any payment is required to be made from the Rebate Fund, the amount in the Rebate Fund is not sufficient to make such payment when such payment is due, the Commission shall calculate the amount of such deficiency and direct the Trustee to deposit an amount received from the Commission equal to such deficiency into the Rebate Fund prior to the time such payment is due.

(g) Withdrawals of Excess Amounts. In the event that immediately following the calculation required by subsection (b) of this Section 3.03, but prior to any deposit made under said subsection, the amount on deposit in the Rebate Fund exceeds the "rebate amount" calculated in accordance with said subsection (b), upon written instructions from the Commission, the Trustee shall withdraw the excess from the Rebate Fund and credit such excess to the Debt Service Fund.

(h) Record Keeping. The Commission shall retain records of all determinations made hereunder until six years after the complete retirement of the Series 2009 Bonds.

(i) Survival of Defeasance. Notwithstanding anything in the Indenture to the contrary, the Rebate Requirement shall survive the payment in full or defeasance of the Series 2009A Bonds.

Section 3.04. Earnings on Debt Service Fund and Reserve Fund. [Unless otherwise instructed by the Commission in writing, the Trustee shall transfer to the Commission on the first day of each month any interest earnings in the Debt Service Fund and Reserve Fund in excess of the amount required to be on deposit in such funds on such date.]

ARTICLE IV

MISCELLANEOUS

Section 4.01. Effective Date of First Supplemental Indenture. This First Supplemental Indenture shall take effect upon its execution and delivery.

Section 4.02. Indenture to Remain in Effect. Except as provided in this First Supplemental Indenture, the Indenture shall remain in full force and effect.

Section 4.03. Execution in Counterparts. This First Supplemental Indenture may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this First Supplemental Indenture by their officers thereunto duly authorized as of the day and year first written above.

PORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO

_____
Executive Director

ATTEST:

_____
Secretary

[TRUSTEE], as Trustee

_____
Authorized Officer

EXHIBIT A

(FORM OF SERIES 2009 BOND)

No. $_____

PORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO
REVENUE BONDS
SERIES 2009

Interest Rate	Maturity Date	Dated Date	Cusip
	[_____ 1, __]		

PRINCIPAL AMOUNT:
REGISTERED OWNER:

The PORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO (hereinafter sometimes called the "Commission"), a public body, corporate and politic, duly organized and existing under the Constitution and statutes of the State of California and the Charter of the City and County of San Francisco (the "Charter"), for value received, hereby promises to pay (but solely out of the funds hereinafter mentioned) to the registered owner hereof as shown above or registered assigns (herein sometimes referred to as the "Owner" or "Holder"), subject to the right of prior redemption hereinafter mentioned, the Principal Amount specified above, on the maturity date specified above, and to pay such Owner on each [____ 1 and _____ 1 of each year commencing on _____1, 20__] (each, a "Series 2009 Interest Payment Date") by check or draft mailed by the Trustee hereinafter referred to on the Series 2009 Interest Payment Date via first class mail to such Owner at such Owner's address shown on the registration books of the Trustee as of the close of business on the fifteenth day of the month preceding each Series 2009 Interest Payment Date (the "Series 2009 Record Date"), or by federal wire transfer to an account in the United States designated by such Owner of Bonds in the aggregate Principal Amount of $1,000,000 or more, upon provision of a written notice received by the Trustee prior to the applicable Series 2009 Record Date, interest on such Principal Amount from the Series 2009 Interest Payment Date immediately preceding the date of authentication hereof (unless (i) the date of authentication hereof is prior to the first regular Series 2009 Record Date in which event from the dated date specified above, or (ii) the date of authentication hereof is a Series 2009 Interest Payment Date, in which event from that Series 2009 Interest Payment Date, or (iii) the date of authentication hereof is after a regular Series 2009 Record Date but before the following Series 2009 Interest Payment Date, in which event it shall bear interest from such Series 2009 Interest Payment Date) until the Principal Amount hereof shall have been paid or provided for in accordance with the Indenture hereinafter referred to, at the interest rate per annum set forth above payable semiannually on each Series 2009 Interest Payment Date. Interest shall be calculated on the basis of a 360-day year consisting of twelve 30-day months. The Principal Amount of and redemption premiums, if any, and interest on the Series 2009 Bonds shall be paid in lawful money of the United States of America. The

Principal Amount of and redemption premiums, if any, on the Series 2009 Bonds and payments of interest due at maturity or earlier redemption of the Series 2009 Bonds, shall be payable upon the surrender thereof at the corporate trust office (the "Corporate Trust Office") of [TRUSTEE], as trustee (the "Trustee"), in Los Angeles, California. All capitalized terms which are used herein, unless otherwise defined herein, shall have the meanings ascribed to such terms in the Indenture (as hereinafter defined).

The Bonds (as defined in the Indenture hereinafter referred to) are special, limited obligations of the Commission, and are payable as to Principal Amount, redemption premium, if any, and interest, out of the Net Revenues, and not out of any other funds or moneys of the Commission not pledged thereto, as further provided in the Indenture. No Holder of the Bonds shall have the right to compel any exercise of the taxing power of the Commission, the City, the State of California or any political subdivision thereof to pay the Principal Amount of or the redemption premium, if any, or interest on the Bonds. This Bond is not a lien, charge or liability, as to either the Principal Amount or interest, against the State of California or any political subdivision thereof or against the Commission, the City or the Board of Supervisors of the City, or against the property or funds of any of the foregoing, except to the extent of the pledge of Net Revenue, as provided by the Indenture.

This Bond is one of a duly authorized issue of Bonds of the Commission designated "Port Commission of the City and County of San Francisco Revenue Bonds, Series 2009" (herein called the "Series 2009 Bonds"), in an aggregate principal amount of $_____, all of like tenor and date (except for bond numbers, interest rates, amounts and maturity) and all of which have been issued pursuant to and in full conformity with the Constitution and laws of the State of California and the Charter. The Bonds are authorized by and issued pursuant to certain resolutions duly adopted by the City and the Commission and under the Indenture of Trust, dated as of _____ 1, 2009 and the First Supplement to Indenture of Trust, dated as of _____ 1, 2009 (together, the "Indenture"), each by and between the Commission and the Trustee, a copy of which is on file with the Secretary of the Commission and the Trustee. This Bond will be secured on a parity with any other Outstanding Bonds hereafter issued in accordance with the Indenture.

All of the Bonds are equally secured in accordance with the terms of the Indenture, reference to which is hereby made for a specific description of the security provided for said Bonds, for the nature, extent and manner of enforcement of such security and for the covenants and agreements made for the benefit of the Holders of the Bonds. By the acceptance of this Bond the Owner hereof consents to all of the terms, conditions and provisions of the Indenture. All of the provisions of the Indenture are hereby incorporated by reference into this Bond as if set forth in full herein, and any inconsistency between the provisions of this Bond and the Indenture shall be resolved in favor of the Indenture. In the manner provided in the Indenture, said Indenture and the rights and obligations of the Commission and of the Holders of Bonds may (with certain exceptions as stated in said Indenture) be amended or supplemented with the consent of the Holders of at least fifty-one percent (51%) in aggregate Principal Amount of Outstanding Bonds of all Series affected by such amendment, unless such amendment is for the purpose of, among other things, curing ambiguities or formal defects or omissions, correcting or supplementing any provision which may be inconsistent with any other provision or to make any other change or addition which shall not have a material adverse effect on the interests of the Holders, in which case no Bondholders' consent is required.

The Series 2009 Bonds shall be subject to optional and mandatory redemption as provided in the Indenture.

This Bond is issued in fully registered form in the denomination of $5,000 or any integral multiple thereof and is negotiable upon proper transfer of registration. This Bond is transferable by the Owner hereof or by his duly authorized attorney, at the Corporate Trust Office of the Trustee, but only in the manner, subject to the limitations and upon payment of the taxes and charges provided in the Indenture, upon surrender and cancellation of this Bond. Upon such transfer, a new Series 2009 Bond of any authorized denomination or denominations for the same aggregate principal amount and maturity of the same issue will be issued to the transferee in exchange therefor. This Bond may also be exchanged for a like aggregate principal amount of Series 2009 Bonds of other authorized denominations of the same maturity and interest rate, but only in the manner, subject to the limitations and upon payment of the taxes and charges provided in the Indenture, upon surrender and cancellation of this Bond.

The Commission and the Trustee shall not be required to issue, register the transfer of, or exchange (i) any Series 2009 Bond during the period beginning on the fifteenth day of the month preceding each Series 2009 Interest Payment Date and ending on such Series 2009 Interest Payment Date, during the fifteen (15) days preceding the selection of Series 2009 Bonds for redemption, on any date on which notice of redemption is scheduled to be mailed or on any redemption date, or (ii) any Series 2009 Bond selected for redemption.

The Commission and the Trustee may treat the Owner hereof as the absolute Owner hereof for all purposes, and the Commission and the Trustee shall not be affected by any notice to the contrary.

This Bond shall not be entitled to any benefit under the Indenture, or become valid or obligatory for any purpose, until the certificate of authentication hereon endorsed shall have been manually signed by the Trustee.

The Commission by execution of this Bond hereby certifies that any and all acts, conditions and things required to exist, to happen and to be performed, precedent to and in the incurring of the indebtedness evidenced by this Bond, and in the issuing of this Bond, do exist, have happened and have been performed in due time, form and manner, as required by the Constitution and statutes of the State of California and the Charter, and that this Bond, together with all other indebtedness of the Commission pertaining to the Port Area, is within every debt and other limit prescribed by the Constitution and statutes of the State of California and said Charter.

IN WITNESS WHEREOF, the PORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO has caused this Bond to be signed on its behalf by the facsimile signature of its President, and the Board of Supervisors of the CITY AND COUNTY OF SAN FRANCISCO has caused this Bond to be signed by the facsimile signature of its Treasurer, all as of the Dated Date set forth above.

By:_____
Executive Director of the Port

By:_____
[Title]

(FORM OF CERTIFICATE OF AUTHENTICATION OF BONDS)

This is one of the Bonds described in the within mentioned Indenture.

Date of Authentication: _____, 2009

[TRUSTEE], as Trustee

By: _____
Authorized Signatory

* * * * *

(FORM OF ASSIGNMENT OF BONDS)

For value received _____ hereby sells, assigns and transfers unto _____ the within mentioned Bond and hereby irrevocably constitutes and appoints _____, attorney, to transfer the same on the books of the Trustee with full power of substitution in the premises.

NOTE: The signature(s) on this Bond must correspond with the name(s) as written on the face of the within Registered Bond in every particular, without alteration or enlargement or any change whatsoever.

Dated: _____, 20__

Signature Guaranteed By:

_____

NOTE: Signature must be guaranteed by an eligible guarantor institution.

ATTACHMENT 6

$_____
PORT COMMISSION OF THE
CITY AND COUNTY OF SAN FRANCISCO
REVENUE BONDS

$_____	**$_____**
Series 2009A	**Series 2009B**
(Non-AMT Tax-Exempt)	**(Taxable)**

BOND PURCHASE CONTRACT

November ___, 2009

Port Commission of the
City and County of San Francisco
Port of San Francisco
Pier 1
San Francisco, CA 94111

Ladies and Gentlemen:

Jeffries & Company, Inc. (the *"Underwriter"*) offers to enter into this bond purchase contract (this *"Purchase Contract"*) with the Port Commission of the City and County of San Francisco (the *"Commission"*), which will be binding upon the Commission and the Underwriter upon acceptance hereof by the Commission. This offer is made subject to the acceptance by the Commission by the execution of this Purchase Contract and its delivery to the Underwriter on or before 11:59 p.m., California time, on the date hereof and, if not so accepted, will be subject to withdrawal by the Underwriter upon written notice delivered to the Commission at any time prior to the acceptance of this Purchase Contract by the Commission. If the Underwriter withdraws this offer, or the Underwriter's obligation to purchase the Bonds (as hereinafter defined) is otherwise terminated pursuant to Section 8(d) hereof, then and in such case, the City shall be without any further obligation to the Underwriter, including the payment of any costs set forth under Section 10(a) hereof, and the City shall be free to sell the Bonds to any other party.

Capitalized terms not otherwise defined herein shall have the meanings set forth in the Indenture of Trust, dated as of _____ 1, 2009 (the *"Master Indenture"*), between the Commission and _____ (the *"Trustee"*), as trustee, as amended and supplemented pursuant to that First Supplement to Indenture of Trust, dated as of _____ 1, 2009 (the *"First Supplement to the Indenture"*), between the Commission and the Trustee (the Master Indenture, as amended pursuant to the First Supplement to the Indenture being herein referred to collectively as the *"Indenture"*).

Section 1. Purchase and Sale. Upon the terms and conditions and upon the basis of the representations set forth herein, the Underwriter agrees to purchase from the Commission, and the Commission hereby agrees to sell and deliver to the Underwriter, all (but not less than all) of the Port Commission of the City and County of San Francisco Revenue Bonds, Series 2009, consisting of $_____ aggregate principal amount of Series 2009A (Non-AMT Tax-Exempt) (the "*Series 2009A Bonds*") and $_____ aggregate principal amount of Series 2009B (Taxable) (the "*Series 2009B Bonds*," and together with the Series 2009A Bonds, the *"Bonds"*). The Bonds shall be dated their date of delivery and shall have the maturities and bear interest at the rates per annum and have the yields all as set forth on Schedule I attached hereto.

The purchase price for the Bonds shall be $_____ (comprised of the principal amount of the Bonds, [plus/less a net original issue premium/discount on the Bonds of $_____,] less an Underwriter's discount in the amount of $_____). The Bonds shall be substantially in the form described in, and shall be issued and secured under and pursuant to, the Indenture. The Bonds shall mature and shall be as otherwise described in the Official Statement. The Commission will deliver the Continuing Disclosure Certificate substantially in the form set forth as an Appendix to the Preliminary Official Statement (the *"Continuing Disclosure Certificate"*) on the Closing Date (as defined herein). A form of the Continuing Disclosure Certificate will also be set forth in the Official Statement.

Section 2. Authorization for the Bonds; Purpose of Issue. Under Section 9.107 of the Charter (the "*City Charter*") of the City and County of San Francisco (the "*City*") and Chapter 43, Article XII of the City and County of San Francisco Municipal Code, adopted by the Board of Supervisors of the City (the "*Board*") on _____, 2009 and signed by the Mayor on _____, 2009 (the "*Ordinance*"), the Commission has the authority to issue port revenue bonds for the purpose of acquiring, constructing, improving or developing ports or port facilities under its jurisdiction and port revenue refunding bonds under such terms and conditions as the Commission may authorize by resolution. The issuance of the Bonds was approved by the Commission pursuant to a resolution of the Commission adopted on [October 13], 2009 (the "*Commission Resolution*") and by the Board pursuant to a resolution of the Board adopted on _____, 2009 and signed by the Mayor on ____, 2009 (the "*City Resolution*," and together with the Commission Resolution, the "*Resolutions*"), each authorizing the issuance and sale of the Bonds.

The Bonds are being issued (i) to finance the construction, reconstruction, repair and/or improvements to various facilities operated by the Commission, finance the cost of design of a new passenger cruise terminal facility, and finance the cost of design for repairs and improvements necessary for office and retail leasing of a facility operated by the Commission,

(ii) to make a deposit into the Series 2009 Reserve Account within the Reserve Fund for the Bonds in the amount of the Series 2009 Reserve Requirement, and (iii) to pay certain costs of issuance of the Bonds.

Section 3. Public Offering. It shall be a condition to the obligations of the Underwriter to purchase, accept delivery of and pay for the Bonds that the entire principal amount of the Bonds be sold and delivered by the Commission to the Underwriter. Subsequent to the initial public offering, the public offering prices of the Bonds may change as determined by the Underwriter as deemed necessary in connection with the marketing of the Bonds.

Section 4. Delivery of Official Statement. Prior to the date hereof, the Commission has provided to the Underwriter for review a form of preliminary official statement relating to the Bonds dated November ___, 2009 (including the cover page and appendices thereto, the "*Preliminary Official Statement*"), which as of its date, the Commission deemed final for purposes of Rule 15c2-12 promulgated under the Securities Exchange Act of 1934 ("*Rule 15c2-12*"), except for certain information permitted to be omitted therefrom by Rule 15c2-12. By its acceptance of this offer, the Commission hereby ratifies the use and distribution by the Underwriter of the Preliminary Official Statement and the Commission has authorized the delivery of a final official statement relating to the Bonds dated the date hereof (the "*Official Statement*") which will consist of the Preliminary Official Statement and all information previously permitted to have been omitted by Rule 15c2-12.

The Commission hereby acknowledges that the Preliminary Official Statement has been made available to investors on the Internet at _____. The Commission hereby agrees to deliver or cause to be delivered to the Underwriter within seven Business Days of the date hereof and at least in sufficient time to accompany any orders or confirmations that request payment from any customers, not more than 250 copies of the final official statement (including all information permitted to be omitted by Rule 15c2-12 and any amendments or supplements to such official statement as have been approved by the Commission and the Underwriter) (the "*Official Statement*") to enable the Underwriter to comply with the rules of the Securities and Exchange Commission (the "*SEC*") and the Municipal Securities Rulemaking Board (the "*MSRB*"). The Commission hereby approves of the use and distribution by the Underwriter of the Official Statement in connection with the offer and sale of the Bonds. At the time of or prior to the Closing Date (as hereinafter defined), the Underwriter shall file a copy of the Official Statement with the MSRB or its designee (including the MSRB's Electronic Municipal Market Access ("*EMMA*") system) or with any other repository approved from time to time by the SEC (either in addition to or in lieu of the filings referred to above).

Section 5. The Closing. At 8:00 a.m., California time, on December ___, 2009, or at such other time or on such other date as the Commission and the Underwriter may agree (the "*Closing Date*"), the Commission shall deliver, or cause to be delivered to the Underwriter through the F.A.S.T. delivery system of The Depository Trust Company ("*DTC*"), the Bonds in book-entry form, duly executed and authenticated. Concurrently with the delivery of the Bonds to the Underwriter, the Commission will deliver the documents hereinafter mentioned at the offices of Hawkins Delafield & Wood, LLP, Co-Bond Counsel, in San Francisco, California, or another place to be mutually agreed upon by the Commission and the Underwriter. The

Underwriter shall accept such delivery and pay the purchase price for the Bonds set forth in Section 1 in immediately available funds to the order of the Trustee. This payment for and delivery of the Bonds, together with the delivery of the aforementioned documents, is herein called the *"Closing."* The Commission with the assistance of the Underwriter shall cause CUSIP identification numbers to be printed on the Bonds; *provided* that neither the failure to print such number on any Bond nor any error with respect thereto shall constitute cause for a failure or refusal by the Underwriter to accept the Bonds. The Underwriter represents that the CUSIP numbers set forth on Schedule I hereof are the correct CUSIP numbers for the Bonds. The Bonds shall be made available to the Trustee at least two (2) business days prior to the Closing.

Section 6. Representations, Warranties and Covenants of the Commission. The Commission represents, warrants and covenants to Underwriter as follows:

(a) *Due Organization, Existence and Authority.* The Commission is a duly constituted public commission of the City and County of San Francisco duly organized and validly existing pursuant to its Charter and the Constitution and laws of the State, with full authority to: (i) adopt the Commission Resolution; (ii) execute and deliver the First Supplement to the Indenture, the Continuing Disclosure Certificate and this Purchase Contract; (iii) approve the Official Statement and authorize its distribution by the Underwriter; (iv) sell and deliver the Bonds to the Underwriter as provided herein and (v) carry out and consummate the other transactions contemplated by such documents.

(b) *Accuracy and Completeness of the Official Statement.* The information with respect to the Commission, its activities and the Port as described in the Official Statement is, and at all times subsequent to the date of the Official Statement up to and including the date of the Closing will be, true and correct in all material respects, contains and will contain no misstatement of any material fact and did not and will not omit any statement and information that is necessary to make the statements and information with respect to the Commission contained therein, in the light of the circumstances under which such statements were made, not misleading in any material respect, excluding in each case any information contained in the Official Statement relating to DTC and the book-entry only system and the information under the caption "UNDERWRITING."

(c) *Official Statement.* If, at any time prior to the date twenty-five (25) days following the later of (a) the Closing or (b) the date the Underwriter no longer retains, directly or as member of an underwriting syndicate, an unsold balance of the Bonds for sale to the public (the later of (a) or (b) being the *"End of the Underwriting Period"*), an event occurs or facts or conditions become known of which the Commission has knowledge, which in the reasonable opinion of Co-Bond Counsel or the General Counsel to the Commission or the City Attorney might or would cause the information in the Official Statement, as then supplemented or amended, to contain an untrue statement of a material fact or to omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, the Commission will notify the Underwriter, and, if in the reasonable opinion of the Underwriter and the Commission such event, fact or condition requires the preparation

and publication of a supplement or amendment to the Official Statement, the Commission will amend or supplement the Official Statement in a form and in a manner reasonably approved by the Underwriter and the Commission, provided all expenses incurred in connection with preparing an amendment or supplement to the Official Statement will be paid by the Commission. As used herein and for the purposes of the foregoing, the term *"End of the Underwriting Period"* for the Bonds shall refer to the Closing, unless the Commission shall have been notified in writing to the contrary by the Underwriter on or prior to the Closing. For the purposes of this subsection, the Commission will furnish such information as the Underwriter may from time to time reasonably request in writing prior to the End of the Underwriting Period.

(d) *No Breach or Default.* As of the time of acceptance hereof and as of the Closing Date and except as otherwise disclosed in the Official Statement, neither the execution nor the delivery by the Commission of the First Supplement to the Indenture, the Escrow Agreement, the Continuing Disclosure Certificate or this Purchase Contract, the adoption of the Commission Resolution, or the compliance by the Commission with such documents or authorizations, or the consummation of the transactions contemplated by such documents or by the Indenture or the Official Statement: (i) conflicts with or constitutes a material breach of or default under any applicable law or administrative regulation of the State or the United States, or any other statute or administrative rule or regulation, judgment, decree, order, license, permit, agreement or instrument to which the Commission is subject which breach, default or conflict would have a material adverse effect on the ability of the Commission to repay the Bonds or have a material adverse effect on the ability of the Commission to perform its obligations under the Indenture, the Escrow Agreement, the Continuing Disclosure Certificate or this Purchase Contract.

(e) *No Other Bond Issues or Debt.* Between the time of acceptance hereof and the Closing Date, the Commission will not, without the prior notice to the Underwriter, issue any bonds or securities or incur any other indebtedness secured by the Net Revenue of the Commission.

(f) *No Litigation.* The Commission shall certify that, as of the date hereof and as of the Closing Date, and except as disclosed in the Official Statement, there is no action, suit, proceedings, inquiry or investigation, at law or in equity, before or by any court, regulatory agency, public board or body, pending or, to the best knowledge of the Commission, threatened against the Commission affecting the existence of the Commission or the titles of its officers to their respective offices or seeking to restrain or to enjoin the sale or delivery of the Bonds, the application of the proceeds thereof in accordance with the Indenture, or in any way contesting or affecting the validity or enforceability of the Bonds, the Indenture or any action of the Commission contemplated by any of said documents, or in any way contesting the completeness or accuracy of this Official Statement or any amendment or supplement thereto, or contesting the powers of the Commission with respect to the Bonds or any action of the Commission contemplated by any of said documents, nor to the knowledge of the Commission, is there any basis therefor. The Commission shall further certify that, as of the date hereof and as of the Closing Date, and except as disclosed in the Official Statement, there is no action, suit,

proceedings, inquiry or investigation, at law or in equity, before or by any court, regulatory agency, public board or body, pending or, to the best knowledge of the Commission, threatened against the Commission in which a final adverse decision would materially and adversely affect the operations of the Port or the consummation of the transactions contemplated by this Purchase Contract; or contesting in any way the completeness, accuracy or fairness of the Official Statement.

(g) *Further Cooperation; Blue Sky.* The Commission will furnish such information, execute such instruments and take such other action in cooperation with the Underwriter as the Underwriter may reasonably request in order to qualify the Bonds for offer and sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions of the United States as the Underwriter may designate; *provided, however,* that the Commission will not be required to execute a special or general consent to service of process or qualify as a foreign corporation in connection with any such qualification in any jurisdiction.

Section 7. Representations, Covenants and Agreements of the Underwriter. The Underwriter represents, covenants and agrees with the Commission that:

(a) The Underwriter has been duly authorized to enter into this Purchase Contract.

(b) The Underwriter shall comply with the San Francisco Business Tax Ordinance and shall, if not otherwise exempt from such ordinance, provide to the Commission a Business Tax Registration Certificate on or prior to the date hereof.

(c) The Underwriter shall comply with Chapter 12B of the San Francisco Administrative Code, entitled "Nondiscrimination in Contracts," which is incorporated herein by this reference.

Section 8. Closing Conditions. The Underwriter has entered into this Purchase Contract in reliance upon the representations, warranties and covenants herein and the performance by the Commission of its obligations hereunder, both as of the date hereof and as of the Closing Date. The obligations of the Underwriter under this Purchase Contract are and shall be subject to the following conditions:

(a) *Bring-Down Representation.* The representations and warranties of the Commission contained herein shall be true, accurate and correct in all material respects at the date hereof and on the Closing Date, as if made on the Closing Date.

(b) *Executed Documents and Performance Thereunder.* At the time of the Closing (i) the Indenture, this Purchase Contract and the Official Statement shall be in full force and effect, and shall not have been amended, modified or supplemented except with the consent of the Underwriter (which consent will not be unreasonably withheld); and (ii) the Commission shall perform or have performed all of its obligations required

under or specified in this Purchase Contract, the Official Statement and the Indenture to be performed prior to the Closing.

(c) *No Default.* At the time of the Closing, no default shall have occurred or be existing under the Indenture or this Purchase Contract.

(d) *Termination Events.* The Underwriter may terminate this Purchase Contract by notification in writing to the Commission, but only after consultation with the Commission in the manner set forth in the paragraphs immediately below, if, at any time on or prior to the Closing, any of the following occurs and, as a result of the occurrence of such an event, the marketability of the Bonds or the market price thereof, in the opinion of the Underwriter after consultation with the Commission, would be materially adversely affected, *provided, however,* that, in the event the Commission and the Underwriter disagree as to the effect of the occurrence of such event on the ability of the Underwriter to market the Bonds, this Purchase Contract may only be terminated by the Underwriter after the Underwriter and the Commission shall have negotiated in good faith to determine an alternate time, place and manner which would permit the Underwriter to successfully market the Bonds:

(i) any event shall occur which makes untrue any statement or results in an omission to state a material fact necessary to make the statements in the Official Statement, in the light of the circumstances under which they were made, not misleading and the Commission fails to amend or supplement the Official Statement pursuant to Section 7(c) hereof; or

(ii) an amendment to the Constitution of the United States or the Constitution of the State or legislation in or by the Congress of the United States or the legislature of the State, or the amendment of legislation pending as of the date of this Purchase Contract in the Congress of the United States, or the favorable reporting for passage of legislation to either House of the Congress of the United States by a Committee of such House to which such legislation has been referred for consideration, or any decision of any federal or State court or any ruling or regulation (final, temporary or proposed) or official statement on behalf of the United States Treasury Department, the Internal Revenue Service or other federal or State authority or the occurrence of any other comparable legislative or regulatory event affecting the federal or State tax status of the interest on bonds or obligations of the general character of the Series A Bonds (including the Bonds); or

(iii) any legislation, ordinance, rule or regulation shall be introduced in, or be enacted by any governmental body, department or agency of the State, or a decision by any court of competent jurisdiction within the State shall be rendered which, in the reasonable opinion of the Underwriter and upon consultation with the Commission, materially adversely affects the market price of the Bonds or adversely impacts the availability of Net Revenue to make payments on the Bonds; or

(iv) a stop order, ruling, regulation or official statement by, or on behalf of, the Securities and Exchange Commission or any other governmental agency having jurisdiction of the subject matter shall be issued or made to the effect that the issuance, offering or sale of obligations of the general character of the Bonds, or the issuance, offering or sale of the Bonds, including all underlying obligations, as contemplated hereby or by the Official Statement, is in violation or would be in violation of any provision of the federal securities laws, including the Securities Act of 1933, as amended and as then in effect, or that the Indenture need be qualified under the Trust Indenture Act of 1939, as amended and as then in effect; or

(v) legislation shall be enacted by the Congress of the United States, or a decision by a court of the United States shall be rendered, to the effect that obligations of the general character of the Bonds, or the Bonds, are not exempt from registration under the Securities Act of 1933, as amended and as then in effect, or the Securities Exchange Act of 1934, as amended and as then in effect, or that the Indenture is not exempt from qualification under the Trust Indenture Act of 1939, as amended and as then in effect; or

(vi) additional material restrictions not in force as of the date hereof shall have been imposed upon trading in the United States in securities generally by any governmental authority or by any national securities exchange; or

(vii) a general banking moratorium shall have been declared by federal, State or State of New York authorities; or

(viii) the ratings on the Bonds shall have been downgraded or withdrawn subsequent to the date of this Purchase Contract by two of the three rating agencies rating the Bonds; or

(ix) a decision by a federal or State court or legislative action which causes, or in the reasonable opinion of the Underwriter and the Commission, would cause a material reduction in the Net Revenue which would materially adversely affect the Commission's ability to repay the Bonds; or

(x) there shall be (a) any change in or addition to applicable federal or state law, whether statutory or as interpreted by the courts or by federal or state agencies, including any changes in or new rules, regulations or other pronouncements or interpretations by federal or state agencies, (b) any legislation enacted by the Congress of the United States or recommended for passage by the President of the United States (if such enacted, introduced or recommended legislation has a proposed effective date which is on or before the Closing Date), (c) any law, role or regulation proposed or enacted by any governmental body, department or agency (if such proposed or enacted law, rule or regulation has a proposed effective date which is on or before the Closing Date) or (d) any judgment, ruling or order issued by any court or administrative body, which in

any such case would, prohibit (or have the retroactive effect of prohibiting, if enacted, adopted, passed or finalized) the Underwriter from underwriting the Bonds as provided herein or selling the Bonds to the public.

The termination of this Purchase Contract pursuant to this Section 8(d) by the Underwriter with respect to the Bonds shall not prohibit the Commission from selling such Bonds to any other underwriter.

(e) *Closing Documents.* At or prior to the Closing, the Underwriter shall receive with respect to the Bonds (unless the context otherwise indicates) the following documents, in each case satisfactory in form and substance to the Underwriter:

(1) *Approving Authorizations.* Certified copies of the Resolutions, the Ordinance and Section 9.107 of the City Charter.

(2) *Bond Documents.* Executed originals of the Indenture, the First Supplement to the Indenture, the Continuing Disclosure Certificate and this Purchase Contract.

(3) *Final Opinion.* An approving opinion or opinions of Co-Bond Counsel, dated the Closing Date, and substantially in the form attached to the Official Statement, and a letter of such counsel addressed to the Underwriter to the effect that such opinion may be relied upon by the Underwriter to the same extent as if it had been addressed to each of them.

(4) *Supplemental Opinion.* A supplemental opinion or opinions of Co-Bond Counsel addressed to the Commission and the Underwriter, dated the Closing Date, to the following effect:

(i) The statements contained in the Official Statement under the captions "TERMS OF THE BONDS," "SECURITY AND SOURCES OF PAYMENT FOR THE BONDS," "TAX MATTERS," Appendix B—"SUMMARY OF THE LEGAL DOCUMENTS," and Appendix E—"PROPOSED FORM OF LEGAL OPINION OF CO-BOND COUNSEL," insofar as such statements purport to summarize certain provisions of the Ordinance and Section 9.107 of the City Charter, the Bonds, the Indenture, and the opinion of Co-Bond Counsel with respect to the exclusion from gross income of interest on the Bonds for federal income tax purposes are accurate in all material respects.

(ii) The Bonds are not subject to the registration requirements of the Securities Act of 1933, as amended, and the Indenture is exempt from qualification under the Trust Indenture Act of 1939, as amended.

(iii) This Purchase Contract, the First Supplement to the Indenture and the Continuing Disclosure Certificate have each been duly

authorized, executed and delivered by the Commission and constitute the valid, legal and binding agreements of the Commission, each enforceable in accordance with its respective terms, except as enforcement thereof may be limited by bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium or other similar laws affecting enforcement of creditors' rights, by the application of equitable principles if equitable remedies are sought and limitations on the enforcement of legal remedies against public agencies in the State.

(5) *Disclosure Counsel Opinion As to Official Statement.* An opinion or opinions of Orrick, Herrington & Sutcliffe LLP, as Disclosure Counsel to the Commission, addressed to the Commission, dated the Closing Date, to the effect that, based upon their participation in the conferences, discussions and negotiations pertaining to the preparation of the Official Statement as Disclosure Counsel, and without having undertaken to determine independently the fairness, accuracy or completeness of the statements contained in the Official Statement, such counsel has no reason to believe that, as of the Closing Date, the Official Statement (excluding therefrom the reports, financial and statistical data and forecasts therein and the information included in Appendices thereto, as to which no opinion need be expressed) contains any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(6) *Certificate of the Commission.* A certificate of the Commission dated the Closing Date, signed on behalf of the Commission by an authorized officer of the Commission, to the effect that:

(i) The representations and warranties of the Commission contained herein are true and correct in all material respects on and as of the Closing Date as if made on the Closing Date.

(ii) No event affecting the Commission has occurred since the date of the Official Statement which has not been disclosed therein or in any supplement or amendment thereto which event should be disclosed in the Official Statement in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(7) *Certificate of the Trustee.* A certificate of the Trustee, dated the Closing Date, to the effect that:

(i) The Trustee is a national banking association organized and existing under the laws of the United States of America and has full power and is qualified to accept and comply with the terms of the Indenture and to perform its obligations thereunder.

(ii) The Trustee has accepted the duties and obligations imposed on it by the Indenture.

(iii) No consent, approval, authorization or other action by any governmental or regulatory authority having jurisdiction over the Trustee that has not been obtained is or will be required for the consummation by the Trustee of the transactions contemplated by the Indenture to be undertaken by the Trustee.

(iv) Compliance with the terms of the Indenture will not conflict with, or result in a violation or breach of, or constitute a default under, any loan agreement, indenture, bond, note, resolution or any other agreement or instrument to which the Trustee is a party or by which it is bound, or, to the best knowledge of the Trustee, after reasonable investigation, any law, rule, regulation, order or decree of any court or governmental agency or body having jurisdiction over the Trustee or any of its activities or properties (except that no representation, warranty or agreement is made by the Trustee with respect to any federal or state securities or Blue Sky laws or regulations).

(v) To the knowledge of the Trustee after due inquiry, there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court or governmental agency, public board or body served on or threatened against or affecting the existence of the Trustee, or in any way contesting or affecting the validity or enforceability of the Indenture or the Bonds, or contesting the powers of the Trustee or its authority to enter into and perform its obligations under the Indenture or the Bonds, wherein an unfavorable decision, ruling or finding would adversely affect the validity of the Bonds or the Indenture.

(8) *Trustee's Counsel Opinion.* An opinion of counsel to the Trustee addressed to the Commission and the Underwriter, dated the Closing Date, to the effect that:

(i) The Trustee is a national banking association with trust powers, duly organized and validly existing and in good standing under the laws of the United States of America, having the legal authority to exercise trust powers in the State.

(ii) The Trustee has full legal power and adequate corporate authority to accept the duties and obligations imposed on it by the Indenture and to authenticate the Bonds and the full legal power and authority to own its properties and to carry on its business.

(iii) The Bonds have been duly authenticated by the Trustee.

(iv) No consent, approval, authorization or order of any court, regulatory authority or governmental body is required for the valid authorization, execution and delivery of the Indenture and the authentication of the Bonds or the consummation by the Trustee of the transactions contemplated in the Indenture except such as have been obtained and except such as may be required under the state securities or Blue Sky laws in connection with the purchase and distribution of the Bonds by the Underwriter.

(v) The acceptance of its duties under the Indenture and the authentication of the Bonds by the Trustee and performance by the Trustee of its obligations thereunder will not conflict with or result in a breach of any of the terms, conditions or provisions of its Articles of Association or Bylaws or any other agreement or instrument to which the Trustee is a party or by which it is bound or any other existing law, regulation, court order or consent decree to which the Trustee is subject or constitute a default thereunder.

(vi) There is no action, suit, proceeding inquiry or investigation, at law or in equity, before or by any court, governmental agency, public board or body, pending or threatened against the Trustee affecting the existence of the Trustee or the titles of its officers to their respective offices or seeking to prohibit, restrain or enjoin the authentication of the Bonds by the Trustee, or contesting the powers of the Trustee or its authority to perform its obligations under the Indenture or the Bonds.

(9) *Tax Certificate.* A Tax Certificate of the Commission, dated the Closing Date, in form satisfactory to Co-Bond Counsel.

(10) *California Debt and Investment Advisory Commission Filings.* Copies of the Report of Proposed Debt Issuance and Report of Final Sale required to be delivered to the California Debt and Investment Advisory Commission pursuant to Section 53583 of the Government Code and Section 8855(g) of the Government Code.

(11) *Continuing Disclosure Certificate.* An executed copy of the Continuing Disclosure Certificate in substantially the form attached to the Official Statement as Appendix C.

(12) *Rating Letters for the Bonds.* Rating Letters of Moody's Investors Service, Inc. (*"Moody's"*) Standard & Poor's Credit Ratings Services, a division of The McGraw-Hill Companies, Inc. (*"S&P"*), and FitchRatings (*"Fitch"*), evidencing that such rating agencies have assigned their municipal bond ratings of "____," "____" and "___," respectively.

(13) *Additional Documents.* Such additional certificates, instruments and other documents as Co-Bond Counsel, the Underwriter or the City Attorney may reasonably deem necessary to evidence the truth and accuracy as of the time of the Closing of the representations of the Commission and the due performance or satisfaction by the Commission at or prior to such time of all agreements then to be performed and all conditions then to be satisfied by the Commission.

If the Commission shall be unable to satisfy the conditions contained in this Purchase Contract, or if the obligations of the Underwriter shall be terminated for any reason permitted by this Purchase Contract, this Purchase Contract shall terminate and the Underwriter and the Commission shall not be under further obligation hereunder, except as further set forth in Section 10 hereof.

Section 9. *Good Faith Deposit.* To secure the Commission from any loss resulting from the failure of the Underwriter to accept delivery of and pay the purchase price for the Bonds pursuant to the terms of this Purchase Contract, the Underwriter agrees to deliver to the Commission, concurrently with the execution and delivery of this Purchase Contract, either an official bank check (which may be deposited by the Commission upon receipt) or a federal funds wire transfer in the amount of $_____ (representing ___ percent (__%)) of the principal amount of the Bonds) (the "Good Faith Deposit"). At the Closing, the Good Faith Deposit will be applied towards and deducted from the aggregate net purchase price for the Bonds as provided in Section 1 of this Purchase Contract. If the Underwriter fails to pay the purchase price in full upon tender of the Bonds (other than for a reason permitted under Section 8 hereof), the Commission may retain such Good Faith Deposit as and for liquidated damages for such failure by the Underwriter. In such circumstance, the Underwriter will have no right to recover the Good Faith Deposit or to any allowance or credit therefor. Retaining the Good Faith Deposit shall constitute the Commission's sole and exclusive remedy and full liquidated damages for the Underwriter's failure (other than for a reason expressly set forth herein) to purchase and accept delivery of the Bonds pursuant to the terms of this Purchase Contract and the Underwriter shall be released and discharged from any and all claims for damages by the Commission against the Underwriter related to such failure and any other defaults by Underwriter hereunder. The Underwriter and the Commission hereby acknowledge and agree that the amount fixed pursuant to this Section for liquidated damages does not constitute a penalty and is a reasonable estimate of the damages that the Commission would sustain in the event of the Underwriter's failure to purchase and to accept delivery of the Bonds on the Closing Date pursuant to the terms of this Purchase Contract. The amount is agreed upon and fixed as liquidated damages because of the difficulty of ascertaining as of the date hereof the actual amount of damages that would be sustained in such event. If the Commission fails to deliver the Bonds on the Closing Date pursuant to this Purchase Contract, or if the conditions to the obligations of the Underwriter to purchase, accept delivery of and pay for the Bonds as set forth in this Purchase Contract shall not be satisfied (unless waived in writing by the Underwriter pursuant to this Purchase Contract), or if this Purchase Contract is terminated for a reason set forth in Section 8 hereof, the Commission shall promptly return the Good Faith Deposit to the Underwriter, plus interest (which shall accrue [at the interest rate at which private depository institutions lend balances at the Federal Reserve to other depository institutions]). Upon such return of the Good Faith Deposit to the

Underwriter, this Purchase Contract shall terminate, and neither party shall have any further obligations hereunder.

Section 10. Expenses.

(a) *Commission.* The Commission shall pay or cause to be paid (but solely from the proceeds of the Bonds and not otherwise) the expenses incident to the performance of the obligations of the Commission hereunder, including but not limited to: (1) the cost of printing of the Preliminary Official Statement and the final Official Statement in reasonable quantities and all other documents prepared in connection with the transactions contemplated hereby; (2) the fees and disbursements of the Trustee and counsel to the Trustee in connection with the issuance of the Bonds; (3) the fees and disbursements of Co-Bond Counsel and of Public Financial Management, Inc., as Financial Advisor to the Commission, and any other experts or consultants retained by the Commission in connection with the transactions contemplated hereby; and (4) the costs related to obtaining ratings.

(b) *Underwriter.* The Underwriter shall pay: (1) the cost of preparation and printing of Blue Sky and Legal Investment Memoranda, if any, to be used by it; (2) all advertising expenses in connection with the public offering of the Bonds; (3) California Debt and Investment Advisory Commission fees; and (4) all other expenses incurred by the Underwriter in connection with its public offering and distribution of the Bonds, including, without limitation, any experts or other consultants hired or retained by the Underwriter, including Underwriter's counsel, the fees and charges of the CUSIP Bureau, and the MSRB, Bond Market Association and California Public Securities Association.

Section 11. City Contracting Requirements. The Underwriter hereby represents to the Commission that it has reviewed and will comply with the following City contracting requirements:

(a) *Conflict of Interest.* Through its execution of this Purchase Contract, Underwriter acknowledges that it is familiar with the provision of Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitute a violation of said provisions and agrees that it will immediately notify the City if it becomes aware of any such fact during the term of this Purchase Contract.

(b) *Proprietary or Confidential Information of City.* Underwriter understands and agrees that, in the performance of the work or services under this Purchase Contract or in contemplation thereof, Underwriter may have access to private or confidential information which may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Underwriter agrees that all information disclosed by City to Underwriter shall be held in confidence and used only in performance of the Purchase Contract. Underwriter shall exercise the same standard of care to protect such information as a reasonably prudent Underwriter would use to protect its own proprietary data.

(c) *Ownership of Results.* Any interest of Underwriter or its Subcontractors, in drawings, plans, specifications, blueprints, studies, reports, memoranda, computation sheets, computer files and media or other documents prepared by Underwriter or its Subcontractors in connection with services to be performed under this Purchase Contract, shall become the property of and will be transmitted to City. However, Underwriter may retain and use copies for reference and as documentation of its experience and capabilities.

(d) *Works for Hire.* If, in connection with services performed under this Purchase Contract, Underwriter or its Subcontractors create artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, blueprints, source codes or any other original works of authorship, such works of authorship shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in such works are the property of the City. If it is ever determined that any works created by Underwriter or its Subcontractors under this Purchase Contract are not works for hire under U.S. law, Underwriter hereby assigns all copyrights to such works to the City, and agrees to provide any material and execute any documents necessary to effectuate such assignment. With the approval of the City, Underwriter may retain and use copies of such works for reference and as documentation of its experience and capabilities.

(e) *Audit and Inspection of Records.* Underwriter agrees to maintain and make available to the City, during regular business hours, accurate books and accounting records relating to its work under this Purchase Contract. Underwriter will permit City to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Purchase Contract, whether funded in whole or in part under this Purchase Contract. Underwriter shall maintain such data and records in an accessible location and condition for a period of not less than five years after final payment under this Purchase Contract or until after final audit has been resolved, whichever is later. The State of California or any federal agency having an interest in the subject matter of this Purchase Contract shall have the same rights conferred upon City by this Section.

(f) *Subcontracting.* Underwriter is prohibited from subcontracting this Purchase Contract or any part of it unless such subcontracting is first approved by City in writing. Neither party shall, on the basis of this Purchase Contract, contract on behalf of or in the name of the other party. An agreement made in violation of this provision shall confer no rights on any party and shall be null and void.

(g) *Assignment.* The services to be performed by Underwriter are personal in character and neither this Purchase Contract nor any duties or obligations hereunder may be assigned or delegated by the Underwriter unless first approved by City by written instrument executed and approved in the same manner as this Purchase Contract.

(h) *Non-Waiver of Rights.* The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, shall not be a waiver of any such

default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.

(i) *Earned Income Credit (EIC) Forms.* Administrative Code section 12O requires that employers provide their employees with IRS Form W-5 (The Earned Income Credit Advance Payment Certificate) and the IRS EIC Schedule, as set forth below. Employers can locate these forms at the IRS Office, on the Internet, or anywhere that Federal Tax Forms can be found. Underwriter shall provide EIC Forms to each Eligible Employee at each of the following times: (i) within thirty days following the date on which this Purchase Contract becomes effective (unless Underwriter has already provided such EIC Forms at least once during the calendar year in which such effective date falls); (ii) promptly after any Eligible Employee is hired by Underwriter; and (iii) annually between January 1 and January 31 of each calendar year during the term of this Purchase Contract. Failure to comply with any requirement contained in subparagraph (a) of this Section shall constitute a material breach by Underwriter of the terms of this Purchase Contract. If, within thirty days after Underwriter receives written notice of such a breach, Underwriter fails to cure such breach or, if such breach cannot reasonably be cured within such period of thirty days, Underwriter fails to commence efforts to cure within such period or thereafter fails to diligently pursue such cure to completion, the City may pursue any rights or remedies available under this Purchase Contract or under applicable law. Any Subcontract entered into by Underwriter shall require the Subcontractor to comply, as to the Subcontractor's Eligible Employees, with each of the terms of this section. Capitalized terms used in this Section and not defined in this Purchase Contract shall have the meanings assigned to such terms in Section 12O of the San Francisco Administrative Code.

(j) *Local Business Enterprise Utilization; Liquidated Damages*

i. **The LBE Ordinance**. Underwriter, shall comply with all the requirements of the Local Business Enterprise and Non-Discrimination in Contracting Ordinance set forth in Chapter 14B of the San Francisco Administrative Code as it now exists or as it may be amended in the future (collectively the "LBE Ordinance"), provided such amendments do not materially increase Underwriter's obligations or liabilities, or materially diminish Underwriter's rights, under this Purchase Contract. Such provisions of the LBE Ordinance are incorporated by reference and made a part of this Purchase Contract as though fully set forth in this section. Underwriter's willful failure to comply with any applicable provisions of the LBE Ordinance is a material breach of Underwriter's obligations under this Purchase Contract and shall entitle City, subject to any applicable notice and cure provisions set forth in this Purchase Contract, to exercise any of the remedies provided for under this Purchase Contract, under the LBE Ordinance or otherwise available at law or in equity, which remedies shall be cumulative unless this Purchase Contract expressly provides that any remedy is exclusive. In addition, Underwriter shall comply fully with all other applicable local, state and federal laws prohibiting discrimination and requiring equal opportunity in contracting, including subcontracting.

ii. **Compliance and Enforcement.** If Underwriter willfully fails to comply with any of the provisions of the LBE Ordinance, the rules and regulations implementing the LBE Ordinance, or the provisions of this Purchase Contract pertaining to LBE participation, Underwriter shall be liable for liquidated damages in an amount equal to Underwriter's net profit

on this Purchase Contract, or 10% of the total amount of this Purchase Contract, or $1,000, whichever is greatest. The Director of the City's Human Rights Commission or any other public official authorized to enforce the LBE Ordinance (separately and collectively, the "Director of HRC") may also impose other sanctions against Underwriter authorized in the LBE Ordinance, including declaring the Underwriter to be irresponsible and ineligible to contract with the City for a period of up to five years or revocation of the Underwriter's LBE certification. The Director of HRC will determine the sanctions to be imposed, including the amount of liquidated damages, after investigation pursuant to Administrative Code §14B.17. By entering into this Purchase Contract, Underwriter acknowledges and agrees that any liquidated damages assessed by the Director of the HRC shall be payable to City upon demand. Underwriter further acknowledges and agrees that any liquidated damages assessed may be withheld from any monies due to Underwriter on any contract with City. Underwriter agrees to maintain records necessary for monitoring its compliance with the LBE Ordinance for a period of three years following termination or expiration of this Purchase Contract, and shall make such records available for audit and inspection by the Director of HRC or the Controller upon request.

(k) *Nondiscrimination; Penalties*

i. **Underwriter Shall Not Discriminate.** In the performance of this Purchase Contract, Underwriter agrees not to discriminate against any employee, City and County employee working with such Underwriter or Subcontractor, applicant for employment with such Underwriter or Subcontractor, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

ii. **Subcontracts.** Underwriter shall incorporate by reference in all subcontracts the provisions of §§12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code (copies of which are available from Purchasing) and shall require all Subcontractors to comply with such provisions. Underwriter's failure to comply with the obligations in this subsection shall constitute a material breach of this Purchase Contract.

iii. **Nondiscrimination in Benefits.** Underwriter does not as of the date of this Purchase Contract and will not during the term of this Purchase Contract, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in §12B.2(b) of the San Francisco Administrative Code.

iv. **Condition to Contract.** As a condition to this Purchase Contract, Underwriter shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission.

v. **Incorporation of Administrative Code Provisions by Reference.** The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Purchase Contract as though fully set forth herein. Underwriter shall comply fully with and be bound by all of the provisions that apply to this Purchase Contract under such Chapters, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Underwriter understands that pursuant to §§12B.2(h) and 12C.3(g) of the San Francisco Administrative Code, a penalty of $50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Purchase Contract may be assessed against Underwriter and/or deducted from any payments due Underwriter.

(l) *MacBride Principles—Northern Ireland.* Pursuant to San Francisco Administrative Code §12F.5, the City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride Principles. By signing below, the person executing this agreement on behalf of Underwriter acknowledges and agrees that he or she has read and understood this section.

(m) *Tropical Hardwood and Virgin Redwood Ban.* Pursuant to §804(b) of the San Francisco Environment Code, the City and County of San Francisco urges Underwriters not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

(n) *Drug-Free Workplace Policy.* Underwriter acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. Underwriter agrees that any violation of this prohibition by Underwriter, its employees, agents or assigns will be deemed a material breach of this Purchase Contract.

(o) *Resource Conservation.* Chapter 5 of the San Francisco Environment Code ("Resource Conservation") is incorporated herein by reference. Failure by Underwriter to comply with any of the applicable requirements of Chapter 5 will be deemed a material breach of contract.

(p) *Compliance with Americans with Disabilities Act.* Underwriter acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a Underwriter, must be accessible to the disabled public. Underwriter shall provide the services specified in this Purchase Contract in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Underwriter agrees not to

discriminate against disabled persons in the provision of services, benefits or activities provided under this Purchase Contract and further agrees that any violation of this prohibition on the part of Underwriter, its employees, agents or assigns will constitute a material breach of this Purchase Contract.

(q) *Sunshine Ordinance.* In accordance with San Francisco Administrative Code §67.24(e), contracts, Underwriters' bids, responses to solicitations and all other records of communications between City and persons or firms seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

(r) *Public Access to Meetings and Records.* If the Underwriter receives a cumulative total per year of at least $250,000 in City funds or City-administered funds and is a non-profit organization as defined in Chapter 12L of the San Francisco Administrative Code, Underwriter shall comply with and be bound by all the applicable provisions of that Chapter. By executing this Purchase Contract, the Underwriter agrees to open its meetings and records to the public in the manner set forth in §§12L.4 and 12L.5 of the Administrative Code. Underwriter further agrees to make-good faith efforts to promote community membership on its Board of Directors in the manner set forth in §12L.6 of the Administrative Code. The Underwriter acknowledges that its material failure to comply with any of the provisions of this paragraph shall constitute a material breach of this Purchase Contract. The Underwriter further acknowledges that such material breach of the Purchase Contract shall be grounds for the City to terminate and/or not renew the Purchase Contract, partially or in its entirety.

(s) *Limitations on Contributions.* Through execution of this Purchase Contract, Underwriter acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or the board of a state agency on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Underwriter acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of $50,000 or more. Underwriter further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Underwriter's board of directors; Underwriter's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Underwriter; any Subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Underwriter. Additionally, Underwriter acknowledges that Underwriter must

inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Underwriter further agrees to provide to City the names of each person, entity or committee described above.

(t) *Requiring Minimum Compensation for Covered Employees*

i. Underwriter agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (MCO), as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P), including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 12P are incorporated herein by reference and made a part of this Purchase Contract as though fully set forth. The text of the MCO is available on the web at www.sfgov.org/olse/mco. A partial listing of some of Underwriter's obligations under the MCO is set forth in this Section. Underwriter is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this Section.

ii. The MCO requires Underwriter to pay Underwriter's employees a minimum hourly gross compensation wage rate and to provide minimum compensated and uncompensated time off. The minimum wage rate may change from year to year and Underwriter is obligated to keep informed of the then-current requirements. Any subcontract entered into by Underwriter shall require the Subcontractor to comply with the requirements of the MCO and shall contain contractual obligations substantially the same as those set forth in this Section. It is Underwriter's obligation to ensure that any Subcontractors of any tier under this Purchase Contract comply with the requirements of the MCO. If any Subcontractor under this Purchase Contract fails to comply, City may pursue any of the remedies set forth in this Section against Underwriter.

iii. Underwriter shall not take adverse action or otherwise discriminate against an employee or other person for the exercise or attempted exercise of rights under the MCO. Such actions, if taken within 90 days of the exercise or attempted exercise of such rights, will be rebuttably presumed to be retaliation prohibited by the MCO.

iv. Underwriter shall maintain employee and payroll records as required by the MCO. If Underwriter fails to do so, it shall be presumed that the Underwriter paid no more than the minimum wage required under State law.

v. The City is authorized to inspect Underwriter's job sites and conduct interviews with employees and conduct audits of Underwriter.

vi. Underwriter's commitment to provide the Minimum Compensation is a material element of the City's consideration for this Purchase Contract. The City in its sole discretion shall determine whether such a breach has occurred. The City and the public will suffer actual damage that will be impractical or extremely difficult to determine if the Underwriter fails to comply with these requirements. Underwriter agrees that the sums set forth in Section 12P.6.1 of the MCO as liquidated damages are not a penalty, but are reasonable

estimates of the loss that the City and the public will incur for Underwriter's noncompliance. The procedures governing the assessment of liquidated damages shall be those set forth in Section 12P.6.2 of Chapter 12P.

vii. Underwriter understands and agrees that if it fails to comply with the requirements of the MCO, the City shall have the right to pursue any rights or remedies available under Chapter 12P (including liquidated damages), under the terms of the contract, and under applicable law. If, within 30 days after receiving written notice of a breach of this Purchase Contract for violating the MCO, Underwriter fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Underwriter fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the City shall have the right to pursue any rights or remedies available under applicable law, including those set forth in Section 12P.6(c) of Chapter 12P. Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.

viii. Underwriter represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the MCO.

ix. If Underwriter is exempt from the MCO when this Purchase Contract is executed because the cumulative amount of agreements with this department for the fiscal year is less than $25,000, but Underwriter later enters into an agreement or agreements that cause Underwriter to exceed that amount in a fiscal year, Underwriter shall thereafter be required to comply with the MCO under this Purchase Contract. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between the Underwriter and this department to exceed $25,000 in the fiscal year.

(u) *Requiring Health Benefits for Covered Employees*

Underwriter agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of Chapter 12Q are incorporated by reference and made a part of this Purchase Contract as though fully set forth herein. The text of the HCAO is available on the web at www.sfgov.org/olse. Capitalized terms used in this Section and not defined in this Purchase Contract shall have the meanings assigned to such terms in Chapter 12Q.

i. For each Covered Employee, Underwriter shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Underwriter chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission.

ii. Notwithstanding the above, if the Underwriter is a small business as defined in Section 12Q.3(e) of the HCAO, it shall have no obligation to comply with part (a) above.

iii. Underwriter's failure to comply with the HCAO shall constitute a material breach of this agreement. City shall notify Underwriter if such a breach has occurred. If, within 30 days

after receiving City's written notice of a breach of this Purchase Contract for violating the HCAO, Underwriter fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Underwriter fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in 12Q.5.1 and 12Q.5(f)(1-6). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.

iv. Any Subcontract entered into by Underwriter shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Underwriter shall notify City's Office of Contract Administration when it enters into such a Subcontract and shall certify to the Office of Contract Administration that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Each Underwriter shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the City may pursue the remedies set forth in this Section against Underwriter based on the Subcontractor's failure to comply, provided that City has first provided Underwriter with notice and an opportunity to obtain a cure of the violation.

v. Underwriter shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to Underwriter's noncompliance or anticipated noncompliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

vi. Underwriter represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

vii. Underwriter shall maintain employee and payroll records in compliance with the California Labor Code and Industrial Welfare Commission orders, including the number of hours each employee has worked on the City Contract.

viii. Underwriter shall keep itself informed of the current requirements of the HCAO.

ix. Underwriter shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

x. Underwriter shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least ten business days to respond.

xi. Underwriter shall allow City to inspect Underwriter's job sites and have access to Underwriter's employees in order to monitor and determine compliance with HCAO.

xii. City may conduct random audits of Underwriter to ascertain its compliance with HCAO. Underwriter agrees to cooperate with City when it conducts such audits.

xiii. If Underwriter is exempt from the HCAO when this Purchase Contract is executed because its amount is less than $25,000 ($50,000 for nonprofits), but Underwriter later enters into an agreement or agreements that cause Underwriter's aggregate amount of all agreements with City to reach $75,000, all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Underwriter and the City to be equal to or greater than $75,000 in the fiscal year.

(v) *Prohibition on Political Activity with City Funds.* In accordance with San Francisco Administrative Code Chapter 12.G, Underwriter may not participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure (collectively, "Political Activity") in the performance of the services provided under this Purchase Contract. Underwriter agrees to comply with San Francisco Administrative Code Chapter 12.G and any implementing rules and regulations promulgated by the City's Controller. The terms and provisions of Chapter 12.G are incorporated herein by this reference. In the event Underwriter violates the provisions of this section, the City may, in addition to any other rights or remedies available hereunder, (i) terminate this Purchase Contract, and (ii) prohibit Underwriter from bidding on or receiving any new City contract for a period of two (2) years. The Controller will not consider Underwriter's use of profit as a violation of this section.

(w) *Preservative-treated Wood Containing Arsenic.* Underwriter may not purchase preservative-treated wood products containing arsenic in the performance of this Purchase Contract unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under Section 1304 of the Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Underwriter may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of the Environment. This provision does not preclude Underwriter from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

(x) *Compliance with Laws.* Underwriter shall keep itself fully informed of the City's Charter, codes, ordinances and regulations of the City and of all state, and federal laws in any manner affecting the performance of this Purchase Contract, and must at all times comply with such local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time.

(y) *Protection of Private Information.* Underwriter has read and agrees to the terms set forth in San Francisco Administrative Code Sections 12M.2, "Nondisclosure of Private Information," and 12M.3, "Enforcement" of Administrative Code Chapter 12M, "Protection of Private Information," which are incorporated herein as if fully set forth. Underwriter agrees that any failure of Contactor to comply with the requirements of Section 12M.2 of this Chapter shall be a material breach of the Contract. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate the Contract, bring a false claim action

against the Underwriter pursuant to Chapter 6 or Chapter 21 of the Administrative Code, or debar the Underwriter.

(z) *Graffiti Removal.* Graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with the City's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City and County and its residents, and to prevent the further spread of graffiti. Underwriter shall remove all graffiti from any real property owned or leased by Underwriter in the City and County of San Francisco within forty eight (48) hours of the earlier of Underwriter's (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. This section is not intended to require a Underwriter to breach any lease or other agreement that it may have concerning its use of the real property. The term "graffiti" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including by way of example only and without limitation, signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and which is visible from the public right-of-way. "Graffiti" shall not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the San Francisco Public Works Code, the San Francisco Planning Code or the San Francisco Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (California Civil Code Sections 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.).

Any failure of Underwriter to comply with this section of this Purchase Contract shall constitute an Event of Default of this Purchase Contract.

(aa) *Food Service Waste Reduction Requirements.* Effective June 1, 2007, Underwriter agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Purchase Contract as though fully set forth. This provision is a material term of this Purchase Contract. By entering into this Purchase Contract, Underwriter agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Underwriter agrees that the sum of one hundred dollars ($100) liquidated damages for the first breach, two hundred dollars ($200) liquidated damages for the second breach in the same year, and five hundred dollars ($500) liquidated damages for subsequent breaches in the same year is reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Purchase Contract was made. Such amount shall

not be considered a penalty, but rather agreed monetary damages sustained by City because of Underwriter's failure to comply with this provision.

(bb) *Cooperative Drafting.* This Purchase Contract has been drafted through a cooperative effort of both parties, and both parties have had an opportunity to have the Purchase Contract reviewed and revised by legal counsel. No party shall be considered the drafter of this Purchase Contract, and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Purchase Contract.

Section 12. Notices. Any notice or other communication to be given under this Purchase Contract to the Commission or the Underwriter may be given by delivering the same in writing at the addresses set forth below:

If to the Commission:

Port Commission of the City and
County of San Francisco
Port of San Francisco, Pier 1
San Francisco, California 94111
Attention: Executive Director
Telephone: (415) 274-0400
Fax: (415) 274-0528

With a copy to:

City and County of San Francisco
Office of Public Finance
City Hall, Room 336
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102
Telephone: (415) 554-5956
Fax: (415) 554-4864

If to the Underwriter:

Jefferies & Company, Inc.
One Montgomery Street, 24th Floor
San Francisco, CA 94104
Attention: Scott Nagelson
Telephone: 415-229-1428
Fax: 415-229-4444

Section 13. Entire Agreement. This Purchase Contract, when accepted by the Commission, shall constitute the entire agreement between the Commission and the Underwriter and is made solely for the benefit of the Commission and the Underwriter (including the

successors or assigns of the Underwriter with the consent of the Commission) and no other person shall acquire or have any right hereunder by virtue hereof. All of the Commission's representations, warranties and agreements in this Purchase Contract shall remain operative and in full force and effect, regardless of (a) any investigation made by or on behalf of the Underwriter, (b) delivery of and payment for the Bonds hereunder, and (c) any termination of this Purchase Contract.

Section 14. Counterparts. This Purchase Contract may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument. This Purchase Contract may be signed in counterparts, and upon delivery to the other party of such signed Purchase Contract, which delivery may be by facsimile transmission, shall constitute the binding agreement of each party to this Purchase Contract.

Section 15. Mutual Reliance on Representations and Warranties. The Commission hereby acknowledges that the Underwriter, in executing this Purchase Contract and in paying for the Bonds as provided herein, are relying upon the representations and warranties of the Commission set forth herein. The Underwriter hereby acknowledge that the Commission, in executing this Purchase Contract and issuing the Bonds described herein, is relying upon the representations and warranties of the Underwriter set forth herein.

Section 16. Severability. In case any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity; illegality or unenforceability shall not affect any other provision hereof, but this Purchase Contract shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein.

Section 17. State of California Law Governs. The validity, interpretation and performance of this Purchase Contract shall be governed by the laws of the State of California. This Purchase Contract shall be enforceable in the State of California, and any action arising out of this Purchase Contract shall be filed with and maintained in City and County of San Francisco Superior Court, San Francisco, California; provided, that the Commission may waive the requirement of venue.

Section 18. Limited Liability. The obligations and liabilities of the Commission hereunder are limited obligations of the Commission payable solely from Revenues as defined and set forth in the Indenture. None of the Commissioners, the officers or employees of the Commission, or any person executing this Purchase Contract shall be liable personally for the obligations of the Commission hereunder or be subject to any personal liability or accountability by reason of the execution hereof. Neither of the faith and credit nor the taxing power of the State or any political subdivision thereof, including the City, is pledged to the obligations of the Commission hereunder.

Very truly yours,

JEFFERIES & COMPANY, INC.,
as Underwriter

By: _____
Authorized Officer

Accepted as of the date first stated above:

PORT COMMISSION OF THE CITY AND
COUNTY OF SAN FRANCISCO

By:_____
Executive Director

Approved as to Form:

DENNIS J. HERRERA
City Attorney

By:_____

Deputy City Attorney

SCHEDULE I

TO THE PURCHASE CONTRACT

MATURITY SCHEDULE

$_____
Series 2009A
(Non-AMT Tax-Exempt)

MATURITY (DECEMBER 1)	PRINCIPAL AMOUNT	INTEREST RATE	YIELD	PRICE	CUSIP (BASE NO. _____)

$_____
Series 2009B
(Taxable)

MATURITY (DECEMBER 1)	PRINCIPAL AMOUNT	INTEREST RATE	YIELD	PRICE	CUSIP (BASE NO. _____)

PORT OF SAN FRANCISCO

MEMORANDUM

October 6, 2009

TO: MEMBERS, PORT COMMISSION
Hon. Rodney Fong, President
Hon. Stephanie Shakofsky, Vice President
Hon. Kimberly Brandon
Hon. Michael Hardeman
Hon. Ann Lazarus

FROM: Monique Moyer
Executive Director

SUBJECT: Request Approval to appropriate $33,328,779 in 2009 Port Revenue Bonds to fund Piers 19 or 23, Pier 35, Pier 33, Pier 27, Pier 50, and Backlands project costs as well as bond issuance costs.

DIRECTOR'S RECOMMENDATION: Approve Attached Resolution

As described in more detail in Item 8A of this agenda, Port staff are recommending issuance of up to $45 million in Port revenue bonds to fund several projects and issuance costs. The purpose of this item is to appropriate the proceeds of the proposed bond to the projects identified below and the issuance costs associated with the bond sale.

Project Description	2009 Bond Allocation
Pier 35 – Fund urgent repairs to both the sub-structure and super-structure of Pier 35 including repairing failing wood columns, and repairing pilings, beams, girders, and slab panels. In addition, the project includes installing new ADA accessible restrooms in the terminal's main entrance/ Reception area. The 2009 Bond allocation is for design and Construction costs. The project is currently in the design phase with construction expected to commence in the winter of 2010 and be completed by the spring of 2011.	$5,500,000

This Print Covers Calendar Item No. 8B

Pier 33 – Build elevator and other accessible features As well as a bathroom to create a leasable space. The 2009 Bond allocation is for construction costs. The project is currently in the design phase with construction expected to commence during the fall of 2010 and be completed August 2011. $ 2,000,000

Piers 19 or 23 – Renovate Piers 19 or 23 to provide office space and public access around the pier and on the aprons. The 2009 Bond allocation is for design and planning costs. The balance required for construction would be funded through a future Port revenue bond issuance. The project is in the planning phase and we anticipate issuing a Request for Proposals for design services in the winter of 2010. Construction is expected to commence by the end of 2012 and completed the first quarter of 2014. $ 2,000,000

Pier 19 – Replace Pier 19's roof to continue to lease the facility on an interim basis. The 2009 Bond allocation is for design and construction. The design will be complete by March 2010 and the construction complete by September 2010. $ 3,500,000

Pier 27 Cruise Terminal – Includes renovating the Pier 27 shed to a cruise terminal that will serve as a special event facility on non-cruise days. Also includes a public plaza/park on the front of the terminal. The 2009 Bond allocation is for design and planning costs that have already begun. The Port Commission is expected to take action on the design contract at its October 27, 2009 meeting.

The balance of the project costs will be funded through a combination of $20 million the Port received as a result of the sale of the Watermark Condominiums located at Bryant Street and The Embarcadero and a future Port revenue bond issuance. $10,000,000

Pier 50 – Repair the entryway to Pier 50 that houses the Port's Maintenance Facility, berthing space for ships, and Port tenants. The 2009 Bond allocation is for construction costs. The project is currently in the design phase with construction expected to commence in the spring of 2010 and be completed by February 2011. $ 1,500,000

Backlands Improvements – new road and utilities to support new leasing plots that are planned for the site. The 2009 Bond allocation is for construction costs. The Port has had a conceptual engineering design completed for this project by KCA Engineers. DPW staff is currently developing construction documents. The design is expected to be completed by the end of 2009, and the project will be advertised for bids sometime in spring of 2010. The construction is expected to be completed by the end of 2010.	$ 8,000,000
Total Project Costs	$32,500,000
CEQA Fees Associated with the Revenue Bond Funded Projects	$ 342,211
Total Project Costs and CEQA Fees	$32,842,211
Bond Issuance Costs	$ 486,568
Total Port Revenue Bond Appropriation	$33,328,779

Approval of funding appropriations is also required by the Mayor and the Board of Supervisors. We expect Mayor Gavin Newsom to introduce the supplemental appropriation along with the financing documents at the October 20, 2009 Board of Supervisors meeting. Assuming the supplemental appropriation request is scheduled at the next available Board of Supervisors Finance and Budget Committee meeting, the appropriation should be in place by the end of November 2009. However, as noted in Item 8A, we expect the Port revenue bond proceeds to be deposited in the Port's accounts towards the end of December 2009 or the beginning of January 2010.

Conclusion

In summary, we request an appropriation of the Port revenue bond proceeds authorized in Item 8A of this agenda to the projects identified in the above table and the issuance costs. Port staff will regularly report to the Port Commission on the status of the implementation of these projects.

We expect a second Port revenue bond issuance to take place in approximately two years to fund construction of the Cruise Terminal at Pier 27 and a Pier 19 or 23 project.

Prepared by: Tina Olson, Deputy Director
Finance & Administration

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 09-64

WHEREAS, The Port Commission will issue up to $45 million in 2009 Port revenue bonds to fund various Port capital projects, a debt service reserve fund, and bond issuance costs; and

WHEREAS, The 2009 Port revenue bond issuance includes $32,842,211 for Port projects including (1) CEQA review and permitting for all of the 2009 Port revenue bond projects; (2) planning and design for the Pier 27 Cruise Terminal project; (3) design and construction of the Pier 35 repair project; (4) planning and design of the Piers 19 or 23 repair and upgrade project; (5) construction of the Pier 33 North project; (6) design and construction of the Pier 19 roof replacement project; (7) construction of the Backlands Improvements project; and (8) construction of the repairs to the Pier 50 Entryway project; and

WHEREAS, The 2009 Port Revenue bond issuance costs are $486,568; therefore, be it

RESOLVED, That the Port Commission hereby approves appropriating $33,328,779 in 2009 Port Revenue Bond funds for projects on Port property and to pay related bond issuance costs.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of October 13, 2009.

_____
Secretary

PORT OF SAN FRANCISCO

MEMORANDUM

October 8, 2009

TO: MEMBERS, PORT COMMISSION
Hon. Rodney Fong, President
Hon. Stephanie Shakofsky, Vice President
Hon. Kimberly Brandon
Hon. Michael Hardeman
Hon. Ann Lazarus

FROM: Monique Moyer
Executive Director

SUBJECT: Request approval for the Port's Executive Director or her designee to revise provisions of the proposed Lease No. L-14711 with the Exploratorium, a California not-for-profit corporation, at Pier 15 and a portion of Pier 17 for a term of 66 years (located on the Embarcadero at Green Street), relating to the removal of off-site bay fill as required by the San Francisco Bay Conservation and Development Commission *San Francisco Waterfront Special Area Plan*. (Resolution No. 09-62)

Director's Recommendation: Approve Attached Resolution

BACKGROUND

At the Port Commission hearing on September 8, 2009 the Port Commission approved, along with other transaction documents, the terms of Lease No. 17411 with the Exploratorium, a California not-for-profit corporation, for a 66-year lease of Pier 15 and a portion of Pier 17 ("Lease") for the redevelopment and historic rehabilitation ("Project") of Pier 15 for the Exploratorium's expanded new museum (Port Commission Resolution No. 09-47). The Project Site is located on the Embarcadero at Green Street (see Exhibit A attached hereto). The Port Commission also made environmental findings and adopted a Mitigation Monitoring and Reporting Program in relation to the Lease and related Project approvals, as required by the California Environmental Quality Act ("CEQA") (Port Commission Resolution No. 09-46). As noted in the Staff Report for the September 8, 2009 hearing, the next steps for the Project include approval by the Board of Supervisors of the Lease, Parking Agreement and three Curb Licenses; amendment of the San Francisco Bay Conservation and Development Commission ("BCDC") *San Francisco Waterfront Special Area Plan* ("Special Area Plan"); and issuance of a BCDC Major Permit.

Legislation adopting CEQA findings and approving the Lease, Parking Agreement and three Curb Licenses was introduced at the Board of Supervisors on October 6, 2009.

This Print Covers Calendar Item No. 9A

The hearing on the approval of these documents will be held at the Budget and Finance Committee of the Board of Supervisors on October 21, 2009. Approval by the full Board of Supervisors will be sought at the full Board meeting on October 27, 2009.

If the revisions to the Lease that are requested herein are approved by the Port Commission, the Lease will be revised to incorporate these revisions, and a revised Lease will be submitted to the Board of Supervisors prior to the Budget and Finance Committee hearing and prior to full Board approval of the Lease.

As noted in the Port Commission Staff Report for the September 8, 2009 hearing, the *Special Area Plan* requires removal of fill at Piers 15 and 17; specifically, the asphalt paving in the valley between the piers, the connector building between the piers and the non-historic additions to the Pier 15 and Pier 17 sheds. The Exploratorium Project does not provide for removal of the entire fill designated for removal under the *Special Area Plan*. Rather, the Exploratorium proposes to remove some of the valley to expose the Bay water, to remove all of the connector building but replace a portion of the footprint with a new "Observatory" Building, and to retain the non-historic shed additions. Extensive public access will be provided in the valley and around the perimeter of Pier 15, and the pier will undergo a complete seismic upgrade.

Because the Project does not fully meet the removal requirements of the *Special Area Plan*, the Exploratorium and Port staff have been in discussions with BCDC since the inception of the Project concerning amendments to the *Special Area Plan*. The Port, BCDC and stakeholders including San Francisco Tomorrow, Save the Bay and the Telegraph Hill Dwellers have engaged in discussions regarding the *Special Area Plan* fill removal requirements and potential off-site fill removal alternatives in other locations of the Port's waterfront. Recently, Port and BCDC staffs have reached consensus on a proposal for amending the *Special Area Plan*.

On November 5, 2009, at a public hearing, BCDC staff will make a preliminary recommendation to the BCDC Commission to amend the *Special Area Plan* in conformance with this proposal, as follows:

1. Modify Open Water Area Policy 1-d to allow for the retention of a portion of the valley and the non-historic sheds between Pier 15 and Pier 17 and to require that the amount of fill that is retained between Pier 15 and 17, and the type of fill (pile-supported, decked structures) be removed at another location along the San Francisco waterfront;

2. Amend the Plan Implementation Requirement 4-f-iv to allow for the retention of portions of the valley and non-historic shed additions between Pier 15 and Pier 17 and require that the area retained be offset with the same amount and type of fill removal (decked structures) in another location along the San Francisco waterfront. If the fill removal occurs in the southern waterfront, the ratio of fill removal required will be 2 sq. ft. to 1 sq. ft. (compared to the current *Special Area Plan* requirements for the valley between Piers 15 and 17 and the non-historic shed additions at Piers 15 and 17), with at least half of this removal consisting of

pile-supported decked structures. Additional required fill removal can include pile fields;

3. Modify the timing of the fill removal required by Plan Implementation Requirement 4-f-iv to occur within 10 years of issuance of a certificate of occupancy for a major development at Pier 15, with an incentive that reduces the 2 to 1 requirement to 1.5 to 1 for completing the fill removal within five years of issuance of a certificate of occupancy for a major development at Pier 15; and

4. Make necessary map changes in conformance with the above.

PUBLIC FUNDING FOR FILL REMOVAL

Over the past several years, Port staff has begun exploring a variety of funding sources for both the fill removal required by the BCDC *Special Area Plan* and for blighted shoreline areas in the Port's southern waterfront. The policy objectives of this proposed fill removal include: compliance with regulatory requirements, protection of local fisheries, removal of potential threats to navigation, and restoration of shoreline areas concurrent with development of shoreline parks and open space.

Earlier this year, Port staff submitted an application to the National Oceanic and Atmospheric Agency ("NOAA") for removal of creosote-treated pile supported structures and pile fields, in response to a NOAA notice of funding availability pursuant to the American Recovery and Reinvestment Act (Port Commission Staff Report for Item No. 9B for the April 28, 2009 meeting). The Port was not awarded this funding.

The Port has been more successful recently. In support of the Brannan Street Wharf Project, Port Staff has worked with the office of Speaker Nancy Pelosi to secure federal funding through the federal Water Resources Development Act ("WRDA") and subsequent federal Energy and Water Appropriations[1] bills for the removal of Pier 36. Port staff was notified on October 1, 2009 that the 2010 Energy and Water Appropriations bill emerged from the U.S. House of Representatives/Senate Conference Committee with $4.7 million in funding for Pier 36 removal. The bill is pending the President's signature.

Port Engineering and Finance and Administration staffs are working with U.S. Army Corps of Engineers ("Army Corps") staff headquartered in San Francisco to develop a memorandum of agreement with the Army Corps detailing roles and responsibilities regarding Pier 36 removal. The Port and City will be obligated to pay a 33% non-federal share of project cost to the Army Corps, and complete analysis of the project pursuant to CEQA, while the Army Corps, pursuant to its debris removal continuing authority, will complete project analysis pursuant to the National Environmental Protection Act, obtain other required approvals, and perform the demolition project.

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[1] WRDA and Energy and Water Appropriations are the federal funding bills that fund the work of the U.S. Army Corps of Engineers ("Army Corps"). The mission of the Army Corps is to "provide vital public engineering services in peace and war to strengthen our Nation's security, energize the economy, and reduce risks from disasters." The Army Corps sustains navigation in San Francisco Bay through its dredging and debris removal programs.

The 2007 Water Resources Development Act included a $25 million dollar authorization for the following Port projects: repair and/or removal of Pier 35, Piers 30-32, Pier 70 (including Wharves 7 and 8), and Pier 80. Based on the success to date of the funding strategy for the Brannan Street Wharf, Port staff will work with the Mayor's Office and the City's Congressional delegation to seek future federal funding for pier repair and fill removal projects that Congress has authorized.

Other sources of public funding that expressly authorize funding of fill removal on Port property are Proposition D (Supervisor Maxwell), adopted by voters in November 2008, and the Port's infrastructure financing district authority, pursuant to SB 1085 (Senator Migden).

PROPOSED LEASE REVISIONS

Simultaneously with the BCDC/stakeholder negotiations, Port Staff and the Exploratorium negotiated certain revised terms to the Lease concerning the *Special Area Plan* fill removal obligations and the allocation of costs between the Port and the Exploratorium.

These proposed terms provide that the Port will use reasonable efforts to obtain public funding for the off-site fill removal required by the BCDC *Special Area Plan.* If matching funds are required by the granting agency, the Exploratorium will pay the non-grant or local share of these matching funds up to an agreed cap of $2 million (in 2009 dollars, indexed over a 16-year period), in two installments: up to $1 million (indexed) to the granting agency by the date required by the grant, and, if required, up to $1 million (indexed) to the Port prior to the 16th anniversary of the issuance of a certificate of occupancy for Pier 15. The Port will pay the remaining required matching funds in excess of $1 million to the granting agency by the date required by the grant, and will be repaid up to $1 million (indexed) by the Exploratorium by the 16th anniversary of the issuance of a certificate of occupancy for Pier 15.

In the event that public funding is either not available or only partially available, the Exploratorium will pay the costs of fill removal up to the agreed cap, and the Port will pay costs in excess of the agreed cap and provide $1 million in funding toward the costs of fill removal, to be repaid by the Exploratorium at commercial rates of interest within 16 years of the issuance of a certificate of occupancy for Pier 15. Both the Port and the Exploratorium are obligated to remove the off-site fill, and the Lease provisions specify the conditions under which each party is so obligated. The Port's agreement to cap the Exploratorium's cost, to remove the fill and to pay for additional off-site fill removal are personal to the Exploratorium and its mortgagee and are non-transferable. The proposed Lease revisions are attached hereto as Exhibit B.

ANALYSIS

The revisions to the Lease and the proposed revisions to the *Special Area Plan*, as set forth above, change the obligations of the Port vis a vis the Exploratorium and vis a vis BCDC in the following ways:

(1) Currently under the *Special Area Plan*, the Port has the obligation to remove fill by the 20th year after the issuance of a certificate of occupancy for a major

reuse of Piers 27-31 or a comparable major development. Under the proposed amendments to the *Special Area Plan*, and the Lease revisions, removal of fill is required within 10 years of issuance of a certificate of occupancy for a major development at Pier 15, which accelerates the time table for fill removal;

(2) Under the proposed amendments to the *Special Area Plan*, for every square foot of fill not removed from Piers 15/17, the parties will be obligated to remove fill at a ratio of 2 to 1 if the fill is removed outside of the northeast waterfront;

(3) If the fill is removed within 5 years of issuance of a certificate of occupancy for a major development at Pier 15 and is removed from outside the northeast waterfront, the ratio will be reduced to 1.5 to 1;

(4) Under the current provisions of the Lease, the Port has no obligation to remove fill or pay for its removal. Under the proposed Lease revisions, the Port would be obligated to pay for fill removal if:

(a) The amount of public funds plus the Exploratorium's contribution (capped at $2 million, as indexed) do not cover the full cost of fill removal, or

(b) The Port is not successful in obtaining public funds, and the amount of the Exploratorium's contribution (capped at $2 million, as indexed) does not cover the full cost of fill removal.

Port staff intends to submit a request for funding for removal of Pier 70, Wharves 6, 7 and 8 to the City's Congressional delegation for funding in the 2011 Energy and Water Appropriation bill, as authorized by the 2007 WRDA. These wharves pose a potential threat to navigation and local fisheries. Based on Port staff calculations, this fill removal would satisfy the proposed BCDC *Special Area Plan* amendments, and result in a substantial Port fill removal credit under the terms of the *Special Area Plan* amendment proposed by BCDC staff, pending approval by the BCDC Commission. Port engineering estimates it would cost approximately $3.7 million to remove this fill.

RECOMMENDATION

Port Staff request authorization for the Executive Director to revise the provisions of Lease No. 14711 with the Exploratorium in accordance with the terms described above.

Prepared by: Jennifer Sobol, Project Manager
Brad Benson, Special Projects Manager

For: Byron Rhett, Deputy Director
Planning & Development

Attachments

Exhibit A: Site Plan
Exhibit B: Proposed Lease Revisions

PORT COMMISSION
CITY & COUNTY OF SAN FRANCISCO

RESOLUTION NO. 09-62

WHEREAS, Charter Section B3.581 grants the Port Commission the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, The Final Environmental Impact Report ("FEIR") required by the California Environmental Quality Act ("CEQA") was certified by the Planning Commission on July 9, 2009, by Motion No. 17916; and

WHEREAS, On September 8, 2009, by Resolution No. 09-46, the Port Commission adopted findings for the Exploratorium Project required by CEQA and adopted a Mitigation Monitoring and Reporting Program ("MMRP") for the Project; and

WHEREAS, The Exploratorium Project files, including the FEIR and Port Resolution No. 09-46, have been made available for review by the Port Commission and the public, and those files are part of the record before this Port Commission; and

WHEREAS, The Port Commission has reviewed and considered the information contained in the FEIR and the findings contained in Port Commission Resolution No. 09-46; and

WHEREAS, On September 8, 2009, by Resolution No. 09-47, the Port Commission approved the form and substance of Lease No. 14711 ("Lease") and the transactions which the Lease contemplates, between the Port and the Exploratorium, a California not-for-profit corporation; and

WHEREAS, The parties now desire to amend the provisions of the Lease concerning the removal of off-site bay fill related to the Exploratorium Project as required under the San Francisco Bay Conservation and Development Commission ("BCDC") *San Francisco Waterfront Special Area Plan*; and

WHEREAS, The Executive Director and Port staff have negotiated proposed revised terms to the Lease related to the removal of off-site bay fill as outlined in the accompanying Staff Report for this Item; and now, therefore, be it

RESOLVED, The Port Commission has reviewed and considered the FEIR and record as a whole, finds that the FEIR is adequate for its use as the decision–making body for the action taken herein and incorporates the CEQA findings contained in Resolution No. 09-46 by this reference thereto as though set forth in this Resolution; and be it further

RESOLVED, The Port Commission further finds that since the FEIR was finalized, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the FEIR due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the FEIR; and be it further

RESOLVED, That the Port Commission hereby approves the proposed revised terms to the Lease related to the removal of off-site bay fill as outlined in the accompanying Staff Report and directs the Executive Director, in consultation with the City Attorney, to incorporate said revised terms into the Lease; and be it further

RESOLVED, That the Port Commission hereby authorizes and directs the Executive Director of the Port, or her designee, to present said revised Lease to the Board of Supervisors for its approval; and be it further

RESOLVED, That the Port Commission authorizes the Executive Director to enter into any additions, amendments or other modifications to the Lease related to the off-site fill removal in connection with the Exploratorium Project (including, without limitation, preparation and attachment of, or changes to, any or all of the exhibits) that the Executive Director, in consultation with the City Attorney, determines are in the best interests of the City, do not materially decrease the benefits or otherwise materially increase the obligations or liabilities of the City or Port, and are necessary or advisable to complete the transactions which the Lease contemplates and effectuate the purpose and intent of this resolution, such determination to be conclusively evidenced by the execution and delivery by the Executive Director of such additions, amendments or other modifications to the Lease; and be it further

RESOLVED, That the Port Commission authorizes the Executive Director and any other appropriate officers, agents or employees of the City to take any and all steps as they or any of them deems necessary or appropriate, in consultation with the City Attorney, in order to consummate the transactions under the Lease, in accordance with this resolution, or to otherwise effectuate the purpose and intent of this resolution, such determination to be conclusively evidenced by the execution and delivery by any such person or persons of any such documents; and be it further

RESOLVED, That the Port Commission authorizes the Executive Director and any other appropriate officers, agents or employees of the City to take any and all steps (including, but not limited to, the execution and delivery of any and all certificates, agreements, notices, consents, escrow instructions, closing documents and other instruments or documents) as they or any of them deems necessary or appropriate, in consultation with the City Attorney, in order to consummate the transactions under the Lease, in accordance

with this resolution, or to otherwise effectuate the purpose and intent of this resolution, such determination to be conclusively evidenced by the execution and delivery by any such person or persons of any such documents; and be it further

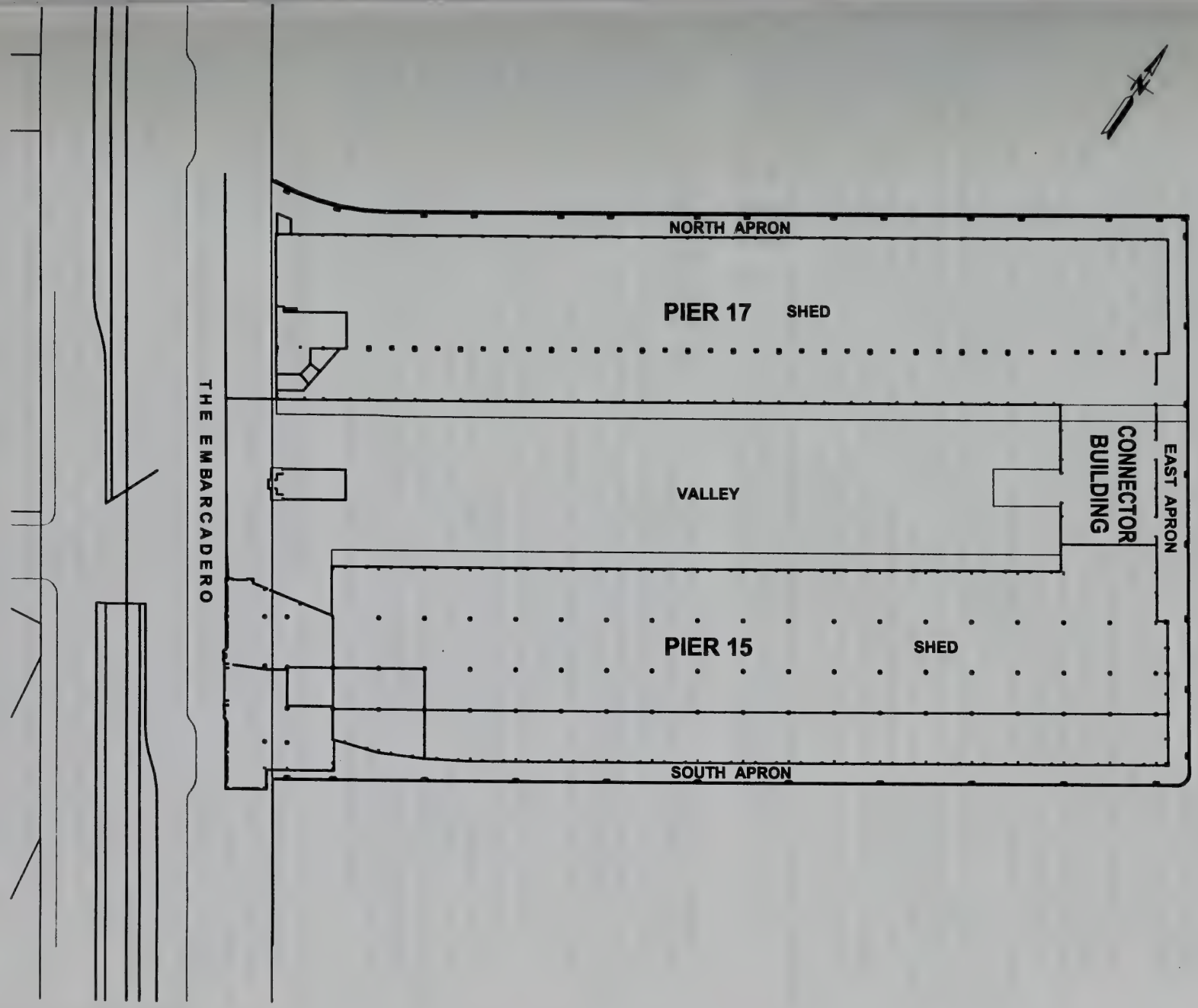
RESOLVED, That the Port Commission approves, confirms and ratifies all prior actions taken by the officials, employees and agents of the Port Commission or the City with respect to the Transaction Documents and related documents.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of October 13, 2009.

_____

Secretary

EXHIBIT A



LEASE NO.	SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING	TENANT SITE PLAN	DRAWN BY: CHECKED BY: PLACE CODE NO. 1150-00	DATE: 09 DEC 2005 SCALE: 1" = 60' SHEET NO. 1 OF 1 SHEETS

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including the Second Fill Installment) by the sixteenth (16th) anniversary of the issuance of a Certificate of Occupancy for the Pier 15 Premises. If after payment by Tenant of its share of the Matching Funds, additional funds are required to remove the Off-Site Fill, Tenant shall pay such additional amount so long as Tenant's cumulative payment for the Off-Site Fill removal does not exceed the Off-Site Removal Cap Amount. If the total cost for removal of Off-Site Fill exceeds the Off-Site Public Fund Amount and the Off-Site Fill Cap Amount, Port shall pay for such excess if such funds have been appropriated in accordance with [***Section 9.11(f)***] ("**Additional Off-Site Fill Removal Cost**").

(d) **Removal of Off-Site Fill by Port**. Port shall use reasonable efforts to obtain appropriation of funds for the removal of the Off-Site Fill required by the BCDC Permit. If Port has not obtained Non-Port Public Funds by the seventh (7th) anniversary of the issuance of a Certificate of Occupancy for the Pier 15 Premises, then within thirty (30) days following the date Port notifies Tenant that the conditions set forth in clause (i) below have been met, Tenant shall pay to Port the First Fill Installment. The "**First Fill Installment**" shall equal the sum of One Million Dollars, increased by three percent (3%) from and after the first anniversary of the Commencement Date and on each Anniversary Date thereafter until and including the tenth (10th) anniversary of the issuance of a Certificate of Occupancy for the Pier 15 Premises. Provided (i) Port funds to remove the Off-Site Fill have been appropriated in accordance with [***Section 9.11(f)***], (ii) Port has received the First Fill Installment from Tenant, and (iii) Port has entered into a contract to remove the Off-Site Fill by the eighth (8th) anniversary of the issuance of a Certificate of Occupancy for the Pier 15 Premises, Port shall remove (or cause to be removed) the Off-Site Fill within the time frame required under the BCDC Permit for removal of the Off-Site Fill. On or before the sixteenth (16th) anniversary of the issuance of a Certificate of Occupancy for the Pier 15 Premises, Tenant shall pay Port the Second Fill Installment. The "**Second Fill Installment**" shall equal the sum of One Million Dollars, increased by three percent (3%) from and after the first anniversary of the Commencement Date and on each Anniversary Date thereafter until and including the tenth (10th) anniversary of the issuance of a Certificate of Occupancy for the Pier 15 Premises and at commercial rates of interest thereafter on each anniversary of the issuance of a Certificate of Occupancy for the Pier 15 Premises until and including the sixteenth (16th) anniversary of the issuance of a Certificate of Occupancy for the Pier 15 Premises. The First Fill Installment and the Second Fill Installment shall together equal the "**Off-Site Fill Cap Amount.**"

(e) **Removal of Off-Site Fill by Tenant**.

At Tenant's option, exercised in its sole and absolute discretion, and provided that (i) Port grants to Tenant the Port permits required for such work; (ii) Tenant obtains sufficient funds to complete such work; and (iii) Tenant enters into a contract to remove the Off-Site Fill, then Tenant shall remove the Off-Site Fill within the time frame required under the BCDC Permit if Port has not obtained Non-Port Public Funds by the seventh (7th) anniversary of the issuance of a Certificate of Occupancy for the Pier 15 Premises (unless otherwise extended by the mutual agreement of the Parties) and (x) funds to remove the Off-Site Fill have not been appropriated by the seventh (7th) anniversary of the issuance of a Certificate of Occupancy for the Pier 15 Premises (unless otherwise extended by the mutual agreement of the Parties), or (y) (1)funds to remove the Off-Site Fill have been appropriated in accordance with [***Section 9.11(f)***], (2) Port has received the First Fill Installment from Tenant, and (3) Port has not entered into a contract to remove the Off-Site Fill by the eighth (8th) anniversary of the issuance of a Certificate of Occupancy for the Pier 15 Premises. Port shall promptly return the First Fill Installment to Tenant, together with all interest accrued at three percent (3%) annually thereon, if such amount has previously been paid to Port by Tenant. Prior to removing the Off-Site Fill, Tenant shall present its cost estimate to Port for the removal of the Off-Site Fill ("**Off-Site Fill Cost Estimate**"). Within thirty (30) days following receipt of the Off-Site Fill Cost Estimate, Port shall either agree with such amount or provide its own estimate of the cost to remove the Off-Site Fill. In the event the Parties cannot mutually agree on the cost estimate to remove the Off-Site Fill within sixty (60) days following Port's receipt of the Off-Site Fill Cost Estimate, then such dispute shall be determined in accordance with [***Section 15.8***]; provided, however, any

references to the "cost of Restoration" or similar terms in [***Section 15.8***] shall refer to the estimated cost to remove the Off-Site Fill. The Parties shall agree on the cost estimate to remove the Off-Site Fill prior to Tenant's commencement of such work ("**Agreed Off-Site Fill Cost Estimate**"). Within thirty (30) days following Tenant's removal of the Off-Site Fill in its entirety and confirmation of such removal by Port, Port shall reimburse Tenant the difference between the Agreed Off-Site Fill Cost Estimate and the Off-Site Fill Cap Amount.

At such time that Tenant requires access to other Port property to remove the Off-Site Fill, Port and Tenant shall enter into Port's then standard form of license to permit access to such other Port property and the right to perform such work thereon. The provisions of this Section 9.11 shall survive the expiration or termination of this Lease.

(f) **Controller's Certification of Funds**. The terms of this Lease shall be governed by and subject to the budgetary and fiscal provisions of the City's Charter. Notwithstanding anything to the contrary contained in this Lease, there shall be no obligation for the payment or expenditure of money by Port under this Lease unless the Controller of the City and County of San Francisco first certifies, pursuant to Section 3.105 of the City's Charter, that there is a valid appropriation from which the expenditure may be made and that unencumbered funds are available from the appropriation to pay the expenditure. Port shall use its reasonable efforts to give Tenant reasonable advance notice if sufficient funds for the payment of Off-Site Fill removal costs have not been appropriated. Port and the City have no obligation to make appropriations for this Lease in lieu of appropriations for new or other agreements or obligations. Port and the City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. Tenant's assumption of risk of possible non-appropriation is part of the consideration for this Lease.

(g) **Rights Exclusive to the Exploratorium**. The Parties agree and acknowledge that Port's agreement to (i) cap Exploratorium's share of the cost to remove the Off-Site Fill at the Off-Site Cap Amount, (ii) remove the Off-Site Fill under the circumstances described in ***Section 9.11(d)***, and (iii) pay for the Matching Fund Gap and the Additional Off-Site Fill Removal Cost, are all personal to Exploratorium, Exploratorium's Mortgagee, and a transferee of Exploratorium's Mortgagee so long as such transferee is a non-profit entity that uses the Premises as a museum open to the general public. Accordingly, immediately upon a Transfer of this Lease (other than in connection with the sale of Historic Preservation Tax Credits or tax-exempt bonds or a Transfer by Exploratorium's Mortgagee so long as the transferee is a non-profit entity that uses the Premises as a museum open to the general public), Tenant's cost to remove the Off-Site Fill and/or Tenant's payment of Matching Funds shall no longer be capped at the Off-Site Fill Cap Amount and Port's agreement to (x) perform the Off-Site Fill removal under the circumstances described in ***Section 9.11(d)*** and/or (y) pay for the Additional Off-Site Fill Removal Cost shall terminate.

[**Note: This concept to be included in Section 3.8**] Failure to timely pay the Matching Funds, First Fill Installment or the Second Fill Installment, as applicable, within five (5) days of when such amounts are due shall be subject to interest at the Default Rate.

PORT OF SAN FRANCISCO

MEMORANDUM

October 13, 2009

TO: MEMBERS, PORT COMMISSION
Hon. Rodney Fong, President
Hon. Stephanie Shakofsky, Vice President
Hon. Kimberly Brandon
Hon. Michael Hardeman
Hon. Ann Lazarus

FROM: Monique Moyer
Executive Director

SUBJECT: Request authorization to offer through competitive bid a three-year lease for surface parking at: Seawall Lot 301 commonly known as the Triangle Parking Lot, bounded by Taylor Street, Jefferson Street, and Powell Street and SWL 314 bounded by the Embarcadero, Bay Street, and Kearny Street.

DIRECTOR'S RECOMMENDATION: Approve Attached Resolution

BACKGROUND

The Port of San Francisco owns a number of surface parking lots that it directly leases to parking lot operators. In fiscal year 2007-08 these surface parking lots generated $7.7 million in revenue to the Port. The leases and management agreement have all expired. They have continued on a month-to-month basis since then. Seawall Lot 301 was originally established as a month-to-month management agreement in 1994. The lease and management agreement are part of the Port's Month-to-Month leasing renewal project reviewed by the San Francisco Board of Supervisors on December 10, 2008 and the Port Commission on January 13, 2009.

It is the policy of the Port to periodically offer these lots for public bid in accordance with the Administrative Code of the City and County of San Francisco. Therefore, Port staff is requesting authorization from the Port Commission to offer through the competitive bidding process one opportunity for the operation of two surface public parking lots in the Northern Waterfront (the "Request for Bids" or "RFB").

This Print Covers Calendar Item No. 11B

These lots are leased to private parking lot operators with rent paid to the Port based on the greater of the minimum rent against percentage rent or in the case of SLW 301 under a management agreement. The management agreement allows the tenant to deduct all direct operating and routine maintenance expenses associated with the lot operation. These lots service a very diverse customer base such as commuters, tourists, local merchant patrons including restaurants and shops, visitors to the Port, and cruise ship passengers. Additionally all lots must be operated in accordance with all laws, regulations, and rules relating to revenue capture and tax payment.

The goal of the Port regarding the operation of these lots is to ensure that each lot is run effectively and efficiently while providing parking services for the Port's diverse customer base. The Port's desire is that these parking lots are operated with a mix of parking options such as hourly, daily, and valet parking, along with monthly parking options where permitted.

PROPOSED BID PROCESS

The Port will accept sealed bids for opportunities to operate the surface parking lots. The lots are referred to as Opportunity A.

All bids must be hand delivered in separate sealed envelopes and clearly marked "Bid for Parking Lot Operations for Opportunity A" and be received by 2:00 P.M., PST, on Wednesday, November 18, 2009, at the Port of San Francisco offices located at Pier 1, San Francisco, California 94111. The proposed bid amount must be listed on the Bid Form(s) that is an attachment to the bid package.

There will be a public opening of the bids at 2:00 P.M., PST, on Wednesday, November, 2009, at the Port of San Francisco offices, Pier 1, Bayside 1 Conference Room, San Francisco, California 94111. The winning bid will be subject to verification of bid requirements.

The process will culminate in a lease, with a term of three (3) years. The successful bidder will be the bidder who proposes the highest rent for the parcels and who meets the minimum qualifications for experience and financial standing.

The rent for the Opportunity shall be bid as a minimum base rent versus percentage rent basis, pursuant to the minimum acceptable bid requirements set forth below. The monthly minimum rent for the lease will be subject to an annual fixed rent adjustment of 3.5%. In addition, the Port shall retain the right to recapture, amend or modify all or part of any surface parking lot premises upon sixty (60) days' written notice to the tenant.

The three-year lease shall be in substantial conformance with the Port Commission standard triple net lease form and subject to Port Commission approval. The Board of Supervisors' approval is also required if the total anticipated revenues derived from the lease exceeds $1 million dollars over the three year term. Under the San Francisco City

Charter, a real estate lease with a total value in rents received in the amount of $1 million dollars or a term of ten (10) years or more requires Board of Supervisors' approval.

BIDDER QUALIFICATIONS

In order to be deemed responsive and therefore be considered for lease award, a bidder must meet the following minimum experience and financial qualifications:

1. The bidder must have managed not less than 1,000 contiguous parking spaces with combined monthly gross revenue of at least $100,000 (including parking tax) for a minimum of thirty-six (36) consecutive months within the past five (5) years. In the case of a joint venture at least one of the partners must satisfy this requirement.

2. Demonstrate good financial standing, the ability to perform the financial obligations under the lease and have a satisfactory record with other parking contracts. Each bidder must also meet the Port's standard criteria for credit worthiness. The Financial Responsibility and Experience Questionnaire, and the Application for Lease will be used to evaluate a bidder's financial condition.

3. Completion of the Human Rights Commission work force forms A&B.

Bidders without the minimum experience or a good financial standing will be deemed non-responsive and their bid(s) will be rejected.

PROPOSED BID TIMELINE

1. Port Commission approval to issue RFB	October 13, 2009
2. Issuance of RFB	October 20, 2009
3. Pre-submittal meeting and site visit	October 29, 2009
4. Submittal of Bids due	November 18, 2009
5. Bid opening	November 18, 2009
6. Staff due diligence review of winning bidder(s)	November 19-30, 2009
7. Recommendation to Port Commission	December 8, 2009
8. Board of Supervisors' approval anticipated	January 2010
9. Lease(s) anticipated to commence effective	February 2010

PROPOSED BID OPPORTUNITES

Bid Opportunity A: Approximately 102,659.99 total square feet consisting of SWL 301, commonly know as the Triangle parking lot located in the heart of Fisherman's Wharf , bounded by Taylor Street, Jefferson Street, and Powell Streets and SWL 314 bounded by the Embarcadero, Bay Street, and Kearny Street, as shown on the attached maps.

- SWL 301 is approximately 71, 545 square feet with approximately 286 self-directed parking stalls. This lot primarily services Fisherman's Wharf merchants such as restaurants, shops, and Wharf visitors. The goal of the Port is for this lot to provide hourly and daily parking options for the Fisherman's Wharf area. The Port will prohibit monthly parking in this lot at all times.

- SWL 314 is approximately 31,114.9 square feet with approximately 124 self-directed parking stalls. SWL 314 is at the gateway to Fisherman's Wharf and Pier 39. The lot is located on the Embarcadero and bounded by Bay Street. This lot primarily services the Pier 35 Cruise Terminal passengers, Fisherman's Wharf merchants, Pier 39 visitors, as well as local merchants and area commuters. The Port will require that a minimum of 10% of the total parking stalls be dedicated to hourly parking to service the local merchants.

PROPOSED MINIMUM LEASE TERMS AND CONDITIONS

1. Term: Three (3) years

2. Annual minimum rent adjustment: 3.5%

3. Minimum Acceptable Bid: No less than $88,129.47 per month or 66% of gross receipts net of parking tax.

4. Port's Option to Expand Premise: Should an opportunity for additional surface public parking become available, the Port shall have the option to expand the Premises to certain sites contiguous or non-contiguous to the Premises but within Port jurisdiction ("Expansion Site") for the sole purpose of providing surface public parking. For operations of the Expansion Site(s), Tenant shall pay a percentage rent to the Port of 66% of gross receipts, after parking taxes. The successful bidder for Opportunity A expansion option is limited to Pier 45, Shed A & C.

5. Improvements: The tenant will accept the parking lot in its "AS IS" condition and will be responsible for all necessary maintenance and compliance with laws. However, should the Port Commission adopt a policy for Parking Lot beautification, the Port reserves the right to negotiate funding of such improvements with the tenant.

6. City Requirements: The City will have the right to require the successful bidder(s) to provide space for the City Car Share Program, Zip Car Share, and to provide space for

electric vehicle charging stations and equipment at the sole cost of the particular vendor not the parking operator(s).

7. Termination Rights: The Port will have the right to terminate the lease for any reason upon no less than 60 days' written notice.

8. Prevailing Wages: The Lease will require the tenant to pay its employees wages at least equal to the highest general prevailing rate of wages as paid for similar work in the City and County of San Francisco in private employment, as determined by the Board of Supervisors pursuant to Section 21.25-2(b) of the City's Administrative Code.

9. Revenue Monitoring Equipment: The lease will require the tenant to utilize revenue control equipment in accordance with Article 22 of the San Francisco Business and Tax Regulation Code and as approved by the City and County of San Francisco. The lease shall be subject to periodic auditing.

10. Approval: Port staff will present the successful bidder(s) to the Port Commission for a recommendation that the lease(s) be forwarded to the Board of Supervisors for approval.

11. Special Restrictions: Monthly parking service, rates or passes are prohibited for SWL 301 and Tenant shall provide two hours of no cost validated parking from 10:00 A.M. to 6:00 P.M. and three hours of no cost validated parking from 6:00 P.M. to midnight to customers of Port of San Francisco Fisherman's Wharf tenants that pay the Port percentage rent (but excluding Pier 39, Pier 41, or any non-Port tenant) with proof of purchase or validated tickets. Tenant shall provide one hour of no cost validated parking from 10:00 A.M. to midnight to customers of Port of San Francisco's Wharf crab stand tenants (but excluding Pier 39, Pier 41, and non-Port tenants) with proof of purchase or validated tickets. Validated parking is not available for subtenants, concessionaires or sellers of non-maritime tours or excursions.

RECOMMENDATIONS

Staff recommends that the Port Commission approve the attached resolution authorizing Port staff to prepare and offer, through competitive bid, a lease with a term of three years for public parking lot operations through the competitive bid process: Bid Opportunity: Seawall Lot 301 commonly known as the Triangle Parking Lot, bounded by Taylor Street, Jefferson Street, and Powell Street and SWL 314 bounded by the Embarcadero, Bay Street, and Kearny Street located in the Northern Waterfront.

Prepared by: Jeffrey A. Bauer
Senior Commercial Leasing Manager

For: Susan Reynolds
Deputy Director of Real Estate

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 09-66

WHEREAS, Charter Section B3.581 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control Port area of the City and County of San Francisco; and

WHEREAS, surface parking generates a significant revenue stream to the Port, and the Port desires to operate its parking lots in an efficient manner while maximizing revenues; and

WHEREAS, the Port requires continued operation of Seawall Lots 301, and 314 located in the Northern Waterfront on an interim basis for public parking by both Port tenants and the public; and

WHEREAS, Port staff is seeking authorization to offer through competitive bid a lease for a term of three (3) years for surface parking lots operated in the Northern Waterfront at: Seawall Lot 301 commonly known as the Triangle Parking Lot, bounded by Taylor Street, Jefferson Street, and Powell Street and SWL 314 bounded by the Embarcadero, Bay Street, and Kearny Street; located in the Northern Waterfront; now, therefore, be it

RESOLVED, that the San Francisco Port Commission authorizes Port staff to offer through competitive bidding a lease for a term of three (3) years for surface parking lot operations at Seawall Lot 301 commonly known as the Triangle Parking Lot, bounded by Taylor Street, Jefferson Street, and Powell Street and SWL 314 bounded by the Embarcadero, Bay Street, and Kearny Street located in the Northern Waterfront, in accordance with the terms outlined in the Agenda Summary for this Item 11B, a copy of which is on file with the Port Commission Secretary.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of October 13, 2009.

_____
Secretary

PORT OF SAN FRANCISCO

MEMORANDUM

October 8, 2009

TO: MEMBERS, PORT COMMISSION
Hon. Rodney Fong, President
Hon. Stephanie Shakofsky, Vice President
Hon. Kimberly Brandon
Hon. Michael Hardeman
Hon. Ann Lazarus

FROM: Monique Moyer
Executive Director

SUBJECT: Request waiver of Port usage fee for the Memorial Service for Donald Fisher at Pier 30/32 to be held on Friday, October 23, 2009, sponsored by Mayor Gavin Newsom, the family of Donald Fisher and Gap, Inc.

DIRECTOR'S RECOMMENDATION: Approve Attached Resolution

BACKGROUND

Donald George Fisher, San Francisco businessman and philanthropist died on September 27, 2009, at the age of 81. Donald Fisher and his wife Doris Fisher co-founded Gap, Inc. and turned a single store blue jean outlet in 1969 into a worldwide, 3,100-store casual wear empire.

Donald Fisher was a great San Franciscan, a loving husband, father and a dear friend to the City and the Port. His unwavering commitment to the City's business, arts and civic culture will be remembered for generations to come. The Port directly benefited from Mr. Fisher's unwavering commitment to the City's waterfront through his interest and commitment to the arts. Mr. Fisher was instrumental in the development of Rincon Park, and he commissioned and donated to the people of San Francisco *Cupid's Span,* a piece of outdoor art that now sits on the crest of the northern lawn of the park.

Mr. Fisher also helped to keep the Giants in San Francisco, which led to the construction of the San Francisco Giants' baseball stadium, now known as AT&T Park, another great addition to the landscape of the Port.

This Print Covers Calendar Item No. 11C

To honor Donald Fisher, Mayor Gavin Newsom, the family of Donald Fisher and Gap, Inc. are planning to hold a memorial service on Friday, October 23, 2009 on Pier 30/32. This memorial service will be open to the public with invited guests and dignitaries. It is expected that 3,000 people will attend this outdoor memorial service from 10:00 a.m. to 11:30 a.m. with a reception to be held in a 40,000 square foot tent from 11:30 a.m. to 12:30 p.m.

The City is participating in the memorial service to honor Mr. Fisher, his leadership, his involvement in civic issues and his many valuable contributions to the City and waterfront he so loved. Port staff supports the use of Pier 30/32 and a waiver of the usage fee for the Memorial Service for Donald Fisher, on Friday, October 23, 2009.

Hartmann Studios will produce this memorial service and will be responsible for all costs associated with the service and reception to include all clean up. They will load in on October 19, 2009 to construct the tent and load out on October 25, 2009. Their insurance certificate is on file and all standard Port requirements for special events will be met, such as permits and approvals from the Port, Entertainment Commission, SFPD, SFFD and any other City Agency as required.

Mayor Gavin Newsom has requested and Port staff agrees that the usage fee of Pier 30/32 be waived based on the following criteria: (1) there are no other uses for the space during this period that would generate rent to the Port; (2) no other uses would be displaced; (3) the sponsors will not use the space for either commercial or exclusive use; (4) Port will not be expending any resources or revenue to support this use; and (5) the event would enliven the waterfront by attracting people to the waterfront and raise awareness of the waterfront and its public benefits and amenities.

FEE WAIVER

Proposed usage fee that would be waived:

$25,000.00 usage fee ($15,000 load-in and load-out fee, $10,000 event fee)

RECOMMENDATION

Port staff recognizes the benefit of participating in this memorial service, acknowledges that Pier 30/32 is an ideal location for such an event and supports the efforts of Mayor Gavin Newsom, the family of Donald Fisher and Gap, Inc. to hold a memorial service for Donald Fisher at the waterfront on Port property. Port staff recommends a waiver of Port usage fee for the Memorial Service for Donald Fisher in the amount of $25,000.

Prepared by: Joyce B. Chan, Property Manager
For: Susan Reynolds, Deputy Director, Real Estate

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 09-65

WHEREAS, Charter Sections B4.114 and B3.581 empower the Port Commission with the power and duty to use, conduct, operate maintain, manage, regulate and control Port area of the City and County of San Francisco ("City"); and

WHEREAS, on Friday, October 23, 2009, approximately 3,000 people will come together to remember and honor Donald Fisher for his contributions to the City of San Francisco; and

WHEREAS, Mayor Gavin Newsom, the family of Donald Fisher and Gap. Inc. will join forces to present the Memorial Service for Donald Fisher at Pier 30/32; and

WHEREAS, Pier 30/32 is a suitable site for this Memorial Service; and

WHEREAS, Port staff is requesting a waiver of the Port usage fee because there are: (1) no other uses for the space during this period that would generate rent to the Port; (2) no other uses would be displaced; (3) the sponsors will not use the space for either commercial or exclusive use; (4) Port will not be expending any resources or revenue to support this use; and (5) the event would enliven the waterfront by attracting people to the waterfront and raise awareness of the waterfront and its public benefits and amenities, therefore, be it

RESOLVED, that the Port Commission hereby finds that the event serves a public purpose and approves upon the terms and conditions set forth in the Agenda Item 8C for the October 13, 2009 Port Commission meeting and authorizes the Executive Director or her designee to waive the Port usage fee for the October 23, 2009 Memorial Service for Donald Fisher at Pier 30/32; and further

RESOLVED, that all standard Port requirements for special events will be met, such as permits and approvals from the Port, Entertainment Commission, SFPD, SFFD and any other City Agency as required.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of October 13, 2009.

_____
Secretary

SAN FRANCISCO PORT COMMISSION

OCTOBER 13, 2009
MINUTES OF THE MEETING

GOVERNMENT
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OCT 23 2009

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MEMBERS, PORT COMMISSION
HON. RODNEY FONG, PRESIDENT
HON. STEPHANIE SHAKOFSKY, VICE PRESIDENT
HON. KIMBERLY BRANDON
HON. MICHAEL HARDEMAN
HON. ANN LAZARUS

MONIQUE MOYER, EXECUTIVE DIRECTOR
AMY QUESADA, COMMISSION SECRETARY

CITY & COUNTY OF SAN FRANCISCO
PORT COMMISSION

MINUTES OF THE MEETING
OCTOBER 13, 2009

1. CALL TO ORDER / ROLL CALL

Commission President Rodney Fong called the meeting to order at 2:35 p.m. The following Commissioners were present: Kimberly Brandon, Michael Hardeman and Ann Lazarus. Commissioner Stephanie Shakofsky was not present.

2. APPROVAL OF MINUTES - September 22, 2009

ACTION: Commissioner Lazarus moved approval; Commissioner Hardeman seconded the motion. All of the Commissioners were in favor; the minutes of the September 22, 2009 were adopted.

3. PUBLIC COMMENT ON EXECUTIVE SESSION

4. EXECUTIVE SESSION

A. Vote on whether to hold closed session to confer with Legal Counsel and Real Property Negotiator.

ACTION: Commissioner Lazarus moved approval; Commissioner Hardeman seconded the motion. All of the Commissioners were in favor.

At 2:36 p.m., the Port Commission withdrew to executive session to discuss the following:

(1) CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING AND ANTICIPATED LITIGATION MATTERS (DISCUSSION & ACTION ITEMS)

a. Discuss anticipated litigation matter pursuant to Section 54956.9(b)(1) of the California Government Code and Section 67.10(d) of the San Francisco Administrative Code. (Discussion and Action Item) Number of potential cases: 1 As Defendant

5. RECONVENE IN OPEN SESSION

At 3:20 p.m., the Commission withdrew from executive session and reconvened in open session.

ACTION: Commissioner Lazarus made a motion to adjourn executive session and reconvene in open session; Commissioner Hardeman seconded the motion. All of the Commissioners were in favor.

ACTION: Commissioner Lazarus made a motion to not disclose any information discussed in executive session; Commissioner Hardeman seconded the motion. All of the Commissioners were in favor.

6. ANNOUNCEMENTS

A. Announcement of Prohibition of Sound Producing Devices During the Meeting

The Commission Secretary announced that the ringing of and use of cell phones, pagers, and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic device.

B. Announcement of Time Allotment For Public Comments

The Commission Secretary announced that a member of the public has up to three minutes to make pertinent public comments on each agenda item unless the Port Commission adopts a shorter period on any item.

7. EXECUTIVE

A. Executive Director's Report: Executive Director Monique Moyer reported the following:

- Fleet Week – October 9-12, 2009: Saturday, October 10, was the beginning of Fleet Week and the Parade of Ships came through in a gorgeous sunlight to a throng of people. She had the privilege of being out on the Bay during the Fleet Week activities on Saturday, and it was wall-to-wall people at Fort Mason, Pier 45, Fisherman's Wharf, Pier 27 and, most importantly, the outcropping that is under Rec & Park's jurisdiction just to the Golden Gate side of the marina.

  There was a pretty great turnout. The Fleet Week events proceeded as anticipated up until the Blue Angels were scheduled to fly at about 3:15. They made effectively two passes and had to cancel due to low-lying fog and wind. That was very disappointing, but the Bay itself was just a sea of vessels and boats. It was pretty amazing to see, a very great event.

  As part of the Fleet Week activities, on Saturday our tug and tow operator, Bay & Delta, christened two new tugboats, which was outstanding for the Port. It was very gratifying to be able to participate in

that, and both of those vessels were out in full force, as was the Jeremiah O'Brien, who had a fantastic turnout as well.

She did not come to the waterfront on Sunday but it's her understanding that the crowds were much sparser on Sunday, in part due to the weather and in part in anticipation that the Blue Angels wouldn't be flying, although they did fly a smaller version of their normal show.

The Community Benefit District is amassing information to see how the actual turnout affected our various merchants. We look forward to finding that out ourselves since the Port was, as we have been every year, a sponsor, as was the Fisherman's Wharf CBD.

- The Great California Shake Out & 20th Anniversary of the Loma Prieta Earthquake – October 15, 2009 at 10:15 a.m.: This week is the 20th anniversary of the Loma Prieta earthquake. The City is enacting something called "The Big Rumble," which is a weeklong series of special events marking the 20th anniversary. The Port will be participating in a citywide drill that the City is holding on October 15. We hope all the tenants of the Port of San Francisco and members of the City will participate as well so that we don't become complacent.

  On Thursday, October 15, at 10:15 a.m. there will be a citywide drill and all of us are asked to drop, cover and hold. For those of you that went to elementary school in California, you may recall having practiced that. The City is encouraging everybody to participate, so the Port will be no exception. In addition, as part of the drill, the Port will be doing a roll call to make sure we know where all of our employees are and that we have all the correct contact information so that in the event that there was a real episode we would be able to reconvene as quickly as possible. The Pier 50 employees will be conducting a radio roll call and the Pier 1 employees will have a roll call.

  There are all kinds of events, including this weekend when the actual anniversary occurs. She hopes that everybody will get a chance to participate in at least one of them, and not forget all the lives that were lost twenty years ago.

- Board of Supervisors Hearing on Concrete Batching Asphalt Plant at Seawall Lot 352 – October 5, 2009: The Board of Supervisors held a hearing on the Port Seawall Lot 352 concrete batching plant or asphalt production. Some time ago, the Port Commission granted Port staff the authority to issue an RFP for the property that's waterside for either a concrete batching plant or an asphalt production plant. The asphalt production plant is a possibility in the event that the City would like to move their asphalt plant to a different location, which is something that the neighbors are very supportive of. The Board held a hearing on that and DPW staff indicated that the current cost to produce asphalt at

DPW's plant is very high relative to private operators. Right now it's a City-run plant. Additionally, their plant is old and potentially unsafe so DPW does not plan to reopen its plant when it closes for the season this fall. That will leave the City with a shortfall for procuring asphalt.

The committee at the Board of Supervisors appeared supportive of the RFP and favored the Port's land to DPW's current site for asphalt production. Supervisor Maxwell is interested in further analysis of a City-owned plant potentially on Port property that DPW would lease from the Port. Port staff will now go before the Board's finance committee and RFP responses are due at the end of October. Port staff will be briefing the Port Commission again in November as to the status of that RFP.

- Second Community Meeting with Interested Parties regarding Darling International's proposed biodiesel project on Amador Street (SWL 344) – October 14, 2009: On October 14, 2009 at 6:00 p.m., there will be a second community meeting with any interested parties regarding Darling International's proposed biodiesel project on Amador Street at Seawall Lot 344. This is being hosted by Port staff and the meeting will include a review of Darling's operations plan for the current rendering activities and the proposed changes for the manufacture of biodiesel. The Port Commission approved the lease amendment allowing them to do biodiesel as well. Tomorrow night's meeting will be at the Joseph Lee Recreation Center at 6:00pm and there will be representatives from the Port, the Mayor's Office, the San Francisco Fire Department, the Department of Public Health, the Department on the Environment, and the Bay Area Air Quality Management District, as well as the Federal EPA and Darling International.

- Water Bar Oyster Fest 2009 – October 15-17, 2009: Waterbar is holding an oyster fest on October 15-17. On October 15 & 16, the Waterbar at Rincon Park is offering a four-course oyster dinner for $125, all-inclusive. Proceeds from Thursday's and Friday's events will benefit the Marine Mammal Center. On October 17, the Monophonics, a live band will be performing at the Waterbar. There will also be a hot sauce competition, a shucking challenge, and a slurping-in-style contest. Tickets are $50 and it includes admission and five tickets. Each ticket is redeemable for some goodies. Proceeds from Saturday will benefit the San Mateo Surf Rider Foundation.

8. FINANCE AND ADMINISTRATION

A. Request approval of: (1) the issuance of the Port of San Francisco's 2009 Revenue Bonds to fund certain improvements on Port property, in the aggregate principal amount not to exceed forty five million dollars ($45,000,000) with an interest rate not to exceed twelve percent per annum; (2) the forms of Indenture of Trust and the First Supplement to the Indenture of Trust, each between the Port and a trustee; (3) the sale of the Bonds by

negotiated sale pursuant to a purchase contract; (4) the form of a bond purchase contract between the Port and Jefferies and Company, Inc.; (5) the preliminary form of the Official Statement relating to the Bonds and the distribution of the statement; and (6) the form of the Continuing Disclosure Certificate of the Port and the execution of the certificate. (Resolution No. 09-63)

ACTION: Commissioner Hardeman moved approval; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor. Resolution No. 09-63 was adopted.

B. Request approval to appropriate $33,328,779 in 2009 Port Revenue Bonds to fund Piers 19 or 23, Pier 35, Pier 33, Pier 27, Pier 50, and Backlands project costs. (Resolution No. 09-64)

Tina Olson, Deputy Director of Finance Administration, indicated that in addition to this being a hearing on issuing of Port revenue bonds and an appropriation of those revenue bonds, it's also a TEFRA (Tax Equity Fairness and Relief Act) hearing. It's a federal requirement for when a jurisdiction is issuing taxable debt. As indicated in the staff report, part of the bonds will be taxable because of the private uses. Port staff noticed that separately through a separate process, but this will in fact be a TEFRA hearing as well.

As noted on the staff report, we've been talking about up to $60 million in bonds but this first issuance is for $32.5 million of project costs. There's additional cost that we need to cover. We have CEQA fees ($342,211) that we included in the annual budget that we're going to reimburse with the bonds. We have issuance cost of $486,568. We have a debt service reserve fund of $3,063,925 that we're going to fund with cash plus additional proceeds of $2,296 for a total anticipated revenue bond uses of $36,395,000.

We're appropriating the project costs of $32.5 million, the CEQA fees, and the bond issuance costs for a total of $33,328,779. The service reserve fund doesn't require an appropriation.

The first project, which is new to the project list, is Pier 35. A couple of months ago, our engineering staff completed evaluation of Pier 35 and it's in much worse shape than we had thought and we needed to do some urgent repairs. We need to fumigate for termites in order to continue to use Pier 35 as a cruise terminal, until we have Pier 27. We also need to put in ADA-accessible restrooms in the lobby area. Altogether, the project will cost $5.5 million dollars. The repairs will be valuable not just to continue it as a cruise terminal as long as we need it as a cruise terminal, but if we were to change the use of Pier 35 those repairs would also be useful for that new use. It's not necessarily just putting money into Pier 35 solely for use as a cruise terminal.

The construction work will be done during three off seasons. For the first season, the fumigation work will be done and some of the immediate repairs related to termites and it will be done by April 2010. The second one will be done by 2011, and the third by 2012. Because the work is being done during the off season, the work is going to take longer.

The Pier 33 project calls for an office build out on the second floor and other accessible features such as an elevator as well as a bathroom. Construction will commence in 2010. It's currently under design by the Department of Public Works and expected to be complete by fall 2011.

For the Pier 27 cruise terminal project, the 2009 bond allocation is for the design and planning costs ($10 million). Port staff, at the next Commission meeting, will be seeking Commission's approval of the design contract.

Piers 19 or 23 ($5.5 million) - Pier 19 roof is in bad shape. It's leaking and it's not at a point where we can do temporary repairs. We need to do a complete fix of the roof. We have $3.5 million in the bond to replace that roof and $2 million to fund the planning and design phase for either Pier 19 or 23. We hope to present a proposal to the Commission on which pier to select at a future Commission meeting.

Pier 50 – We have reduced the amount ($1.5 million) allocated to fix absolutely necessary repairs to continue to have access to Pier 50. That was largely in part to provide some funding for Piers 35 and 19. We expect to start that work in the spring of 2010 and be completed by the summer of 2011.

Backlands Improvements ($8 million) – for new roads and utilities to accommodate some leasing plots. We expect to start work in the spring of 2010 and be done by the end of 2010.

Ms. Olson requested the Commission to authorize up to $45 million dollars in bonds. We don't currently expect to issue that much but our bond counsel and financial advisors have indicated that it's better to put a bigger cap into the authorization, even though that's not what we're currently planning to issue. If we were to issue more than what we're proposing, we would come back to the Port Commission for authorization because we would need to appropriate the funds. The interest rate will not exceed 12%, which is the State constitutional limit but again, we're not expecting a 12% interest rate.

We're planning on a 7.14% interest rate. It's a mix of taxable and tax-exempt debt. We think that's pretty a conservative interest rate for planning purposes. We would have an annual debt service of $2.7 million dollars. In today's market, that's pretty low. It's at an all-time low. If we were to issue the bonds today and we had an A rating, we would get about a 5.8% interest rate. In either case we can cover it, because our debt service budget is $4.7 million. It would be better to get a lower interest rate but we can cover it if it is higher.

The Port's remaining debt capacity is approximately $61.7 million. The two remaining projects to go into construction are the Pier 19 or 23 and Pier 27 cruise terminal. The costs of those projects are unknown at this time because we have to go through the design process and the Commission will have to decide the amount to allocate to construction based on the preferred design alternative. We expect to issue that debt in early 2012.

What Port staff are trying to accomplish in part is to increase the Port's overall revenue so that it will allow us to issue additional debt and do additional projects down the line. We estimate almost $6.9 million in additional annual revenues once all of these projects are complete and fully utilized.

The following documents require Port Commission's approval: (1) preliminary official statement; (2) continuing disclosure certificate; (3) indenture of trust; (4) a supplement to the indenture of trust; and (5) bond purchase agreement.

The Preliminary Official Statement – this document describes the Port's financial condition (past, present and future) and the Port's past debt service coverage and what we're projecting it will be once we issue these bonds. It outlines in detail the real estate and maritime business, both the good and the bad and the risk involved. The document describes the condition of the Port's facility. It includes a long write-up on the capital plan and what our unfounded amounts were and what could be the risk if we can't find a way to fix those facilities. We also have other natural and economic risks, particularly if the economy goes south or, worse, if we have an earthquake. Once this document is done, it's going to be submitted to the investors. That's in part what they use to determine whether or not the Port bonds are the types of bonds they'd like to buy.

Continuing Disclosure Certificate – this document is an agreement by the Port to publicly submit annual reports relating to its actual debt service coverage, actual expenses and revenues, and to be submitted immediately following a special event such as a change in the Port's bond ratings.

Indenture of Trust is a contract between the bondholders and the Port. The Indenture of Trust requires the Port to maintain debt service coverage of 1.30. In the past five years, it hasn't dropped below 2 at the Port. To help provide additional assurances that the Port can meet its debt service coverage requirement, we included language in the Indenture of Trust that creates a Revenue Stabilization Fund to which we would deposit the Port's 15% operating reserve. This would be a covenant that 15% operating reserve would stay in place every year and that it would be moved into a separate sub-fund and that it could be accessed to be part of the debt service coverage if we need it. It essentially gives an extra cushion to bond holders and, of course, it goes through defaults and remedies.

The First Supplement to the Indenture of Trust provides the 2009 revenue bond terms, bond maturity schedule, payment dates, and establishing bond accounts.

The bond purchase agreement is a contract between the Port and underwriting firm Jefferies & Co. Inc. to purchase the Port's bonds.

Next steps: The Mayor's Office will introduce this item to the Board of Supervisors on October 27, 2009. It will then be presented to the Board of Supervisors' Finance Committee on November 18, 2009 and to the full board on December 1, 2009. Last week, Port staff met with all three rating agencies and are expecting to receive our ratings by December 14, 2009 and then pricing and bond closing in the middle of January.

Next steps on the design for Piers 27 and 19 or 23: Port staff will present to the Commission at its next meeting the award of the design contract for Pier 27. We plan to issue an RFP for Piers 19 or 23 in the winter of 2010 and award the design contract sometime in the spring. In terms of the design process, we would be doing public workshops at the different design intervals. There will be a design review period and the ultimate approval by the Port Commission, Waterfront Design Committee and BCDC. Pier 27 may require some BCDC special area plan amendments.

Commissioner Brandon congratulated Ms. Olson for a job well done.

Commissioner Hardeman commended Ms. Olson for a good presentation on a difficult, complicated matter.

Commissioner Lazarus indicated that it's a great presentation.

Commissioner Fong commended Ms. Olson for a good job.

Commissioner Fong commented that Pier 35 for the cruise ship industry is vital, and he's glad that we're able to keep it going for a little bit. He's excited about Pier 27 and a new cruise ship terminal. He hopes that will bring us new cruise ships and events in San Francisco to help stimulate all of the businesses on the waterfront.

ACTION: Commissioner Hardeman moved approval; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor. Resolution No. 09-64 was adopted.

9. PLANNING & DEVELOPMENT

A. Request approval for the Port's Executive Director or her designee to revise provisions of the proposed Lease No. L-14711 with the Exploratorium, a California not-for-profit corporation, at Pier 15 and a portion of Pier 17 for a term of 66 years (located on the Embarcadero at Green Street), relating to the

removal of off-site bay fill as required by the San Francisco Bay Conservation and Development Commission *San Francisco Waterfront Special Area Plan.* (Resolution No. 09-62)

Jennifer Sobol, Project Manager in the Planning and Development Division, indicated that on September 8, 2009, the Port Commission approved the historic rehabilitation relocation project for the Exploratorium at Piers 15 and 17 and approved the lease, the development agreement, and the other transaction documents.

Today she's requesting Commission's approval of some lease revisions that were negotiated with the Exploratorium, specifically to the BCDC fill removal obligations and allocation of the cost between the Port and the Exploratorium. As explained in the staff report, the proposed project by the Exploratorium does not fully meet the removal requirements of the BCDC Special Area Plan, which requires removal of the valley between Piers 15 and 17, the connector building between the piers, and the non-historic shed additions that were built on the sheds in the 1950s. The Exploratorium, Port staff, BCDC staff and our stakeholders have been in discussions about amendment of the Special Area Plan and the requirements and finding potential sites to accomplish the fill removal on Port property in other locations.

We've reached consensus on the proposed amendments to the Special Area Plan (SAP) and those amendments will be presented to the BCDC Commission on November 5, 2009. Some of the amendments are: they would allow some fill to remain at Piers 15 and 17 but the amount and type of fill that's being retained must be removed elsewhere. If this fill is removed from the Port's Southern Waterfront then the ratio of the fill removal required will be two square feet for every one square foot of fill retained at Piers 15 and 17. At least half of the fill that's removed must be pile-supported deck structures; the rest can be pile fills, sticks in the water.

The SAP would also be amended to require that the fill be removed within ten years after issuance of a certificate of occupancy for a major project at Pier 15. If we are able to remove the fill within five years and that fill is in the Southern Waterfront, then the ratio would be reduced to one and a half to one square foot.

Subsequently or simultaneously with these negotiations on the Special Area Plan amendments, we've also been negotiating with the Exploratorium. Port staff and the Exploratorium have revised the section on BCDC in the lease, and those revisions are attached as Exhibit B to the staff report.

The Exploratorium's obligation would be capped at the lesser of the actual cost to remove the fill or $2 million plus interest. Their obligation within the first ten years after issuance of a certificate of occupancy would be capped at $1 million plus interest. Under the current lease, there's no obligation for the Port to remove fill or to pay for fill removal. However, under these proposed

lease revisions, the Port would be obligated to pay for fill removal if funds are appropriated by the Board if the amount of public funds that we're able to get plus the Exploratorium's contribution does not cover the full amount of the fill removal. In the case where we are not successful in obtaining public funds, the amount of the Exploratorium's contribution is not sufficient to cover the cost of fill removal, the Port would be obligated to pay for the excess. Overall, the Port must pay for an amount in excess of $2 million and in the first ten years we would have to pay the amount in excess of $1 million.

If the fill removal is $4 million and we are able to receive public funds for the entire amount, if the matching portion or the local share is a third – let's say $1.32 million – then the Exploratorium must pay the $1 million in matching funds, because this would have to occur within the ten years after the certificate of occupancy plus interest. The Port would pay the $1.32 million, subject to an appropriation, but it would be reimbursed for that amount plus interest by the Exploratorium by the sixteenth year after the certificate of occupancy is issued.

If in the same example, $4 million, if we're not able to receive public funds, then the Exploratorium would pay $1 million plus interest, the Port would have to pay $3 million subject to appropriation, but we would be reimbursed $1 million plus interest by the Exploratorium in the sixteenth year. The Port's total exposure could be $2 million, in that example. We hope to get public funds and Brad Benson has been working very hard to identify funds, especially under the Water Resources Development Act. We intend to request funding for the removal of Pier 70 and Wharves 6, 7, and 8 to the City's congressional delegation for funding in the 2011 Energy and Water Appropriation Bill.

If we are successful, we won't have very much exposure. Based on Port staff's calculations, if we were to remove those areas, it would more than satisfy the obligation under the Special Area Plan as amended and probably have extra for a fill bank credit. The Port engineer estimates the fill removal at approximately $3.7 million.

If these revisions are approved by the Port Commission today, they will be incorporated into the lease and forwarded to the Board of Supervisors. We have submitted the existing lease and transaction documents at the Board. It's set for a Budget and Finance Committee hearing on October 21, 2009. We hope to get full board approval on October 27, 2009 and we would be submitting this amendment at the committee hearing, or the Supervisor would be introducing that.

Jeff Hamilton, Director of Government Relations for the Exploratorium, speaking on behalf of Dennis Bartels, Executive Director of the Exploratorium, who is attending the Exploratorium board meeting this evening, asked that he extend his thanks and appreciation for all of the incredible hard work of the Port Commission and the Port Commission staff.

Janice Thacher, Wilson Meany Sullivan, indicated that they are the development managers for the Exploratorium project. She thanked the Port Commission for their cooperation in working through this issue with BCDC. In particular, Port staff led by Brad Benson, has worked very hard to put together a solution that works for all the parties. Jennifer Sobol, Byron Rhett and Grace Park have worked very hard and they appreciate all of their dedication to the project. They look forward to moving forward.

Commissioner Brandon asked where in the southern waterfront they are looking to remove fill

Jennifer Sobol replied that they're looking at removing fill at Pier 70, Wharves 6, 7 and 8 and other sites have been identified.

Brad Benson, Special Projects Manager, indicated that during this process, they've looked at all of the fill removal sites in the southern waterfront. They've examined Islais Creek, the Pier 98, the derelict wharves off Pier 70, the former Pier 64 site, Carmen's on Mission Creek, and they've identified a potential universe of funding requests that could be made either through the existing WRDA authorization that Jennifer mentioned or through a future request for the next round of WRDA.

Commissioner Brandon asked when we will decide what we're going to remove and how much that's going to cost and how much the Port may be responsible for.

Brad Benson replied that as Jennifer Sobol mentioned and as described in the staff report, we think that the best candidate site is Pier 70 because the 2007 WRDA bill authorized up to $25 million that could be expended on repair and removal of those particular wharves. The other sites in the southern waterfront would need a new congressional authorization under WRDA which, again, we intend to ask for.

Commissioner Brandon asked if the Port has no cap on what we may spend.

Brad Benson replied that the Port agreed to take the cost exposure above the $2 million cap that is provided for the Exploratorium. The exchange for that is the Exploratorium would pay all of the non-federal share or non-grant share of the fill removal cost up to the $2 million cap. The Port is taking the position that we look favorably on the odds of getting federal funding.

Commissioner Brandon asked what our exposure would be if we don't receive federal funding.

Brad Benson replied that our exposure is what we estimate the fill removal cost to be. The example of Pier 70 that is raised in the staff report $3.7 million is Port Engineering's cost estimate for the removal. The Exploratorium would be responsible for $2 million of that removal and the Port would be

responsible for the excess removal up to what's required in the BCDC Special Area Plan. That's not the full $1.7 million remaining, because the Pier 70 site includes much more fill to be removed than is required under the BCDC plan.

ACTION: Commissioner Lazarus moved approval; Commissioner Hardeman seconded the motion. All of the Commissioners were in favor. Resolution No. 09-62 was adopted.

10. ENGINEERING

A. Informational report on San Francisco Stormwater Design Guidelines and Proposed Stormwater Ordinance.

John Mundy, Port Engineering Division Project Management, indicated that the Port and the San Francisco Public Utilities Commission have been working together since late 2006 to establish a set of policies for stormwater management in San Francisco. Stormwater is considered a significant source of pollution to the Bay and other receiving waters. To that end, the California State Water Resources Control Board has issued a Clean Water Act permit that covers both the PUC and the Port and it requires us to develop specific programs to control pollution in stormwater runoff. One of those programs is for the control of pollution associated with new development projects. As he's indicated in prior presentations to the Commission, the name of the policy document that the Port and PUC are developing is called the Stormwater Design Guidelines.

The Stormwater Design Guidelines currently address areas of the city that are served by separate storm sewers i.e. storm sewers that convey stormwater runoff directly to the San Francisco Bay or the receiving waters, like Lake Merced. In fact, most of the cities are served by what's called a combined sewer, where sewage and stormwater are collected in one set of pipes. Those pipes go to a wastewater treatment plant and that combined waste stream receives treatment prior to discharge to the Bay or to the ocean. The Public Utilities Commission is working on a policy document that addresses similar aspects of stormwater control for the combined sewer system. They expect to have that policy finished sometime in the next year or so.

We have a policy document, the Stormwater Design Guidelines, and we need to establish what the goals of the guidelines are going to be. What we're looking for is a specific regulatory framework for applying these post-construction control guidelines around the city. We're looking to create synergy with other policy efforts in San Francisco specifically that which Mayor Newsom is working on towards sustainable development. We know that's a key policy initiative for the Mayor. We're also looking to establish stormwater control solutions that are visually appealing and basically improve the quality of our public spaces. We're looking at things like green rooms, rainwater gardens that can take stormwater runoff and basically use

landscaped areas to manage that runoff, and also possibly to create water features.

We're working on the design guidelines. We are considering what the backdrop is for getting folks in the community on board. We knew that we would also have to do outreach interdepartmentally, making sure we had polices and regulations that were clearly coordinated interdepartmentally. PUC has another ordinance that they need to achieve consistency with, which is the green building ordinance. We have similar policies that we're working on here at the Port. Another policy document that Port and PUC staff are currently working on together is the Sewer System Master Plan, which PUC will present to the Port Commission later this year.

We're also looking to ensure that we don't make it too hard on the private developers. We want to provide technical assistance and we want to make the requirements clear and make sure they're cost-effective. We wanted to ensure we had adequate community involvement, that whatever policies we came up with had full support from local community stakeholders.

We're also looking to provide demonstration projects and folks are probably aware of the EcoCenter at Heron's Head Park, which is going to have a green roof and rainwater harvesting, two of the key approaches that we're promoting as part of the Stormwater Design Guidelines. That project is currently under construction. In fact, the project recently got some economic stimulus funding. We're hoping to see construction on that project completed early next year.

The concrete batch plants that were recently completed at Pier 92 that involved rainwater harvesting, where we collect rainwater that falls on the side of the batch plant and we use that rainwater to formulate concrete, which basically conserves potable water while at the same time it prevents contaminated stormwater runoff from hitting the creek and Bay.

The idea of sustainable development is one of Mayor Newsom's policy goals. Another term for that is low-impact design. The goal of low-impact design is to design new facilities and new landscapes in a way that attempts to restore and mimic an original watershed - lots of landscaping, infiltration, areas of the Bay margin that are softscape as opposed to hardscape so that there's some vegetation providing a buffer between the upland and the water areas.

Low-impact design is a concept that's being coordinated interdepartmentally on a few different policy efforts: the Streetscape Master Plan that's being developed through DPW and the Planning Department, the Sewer System Master Plan that PUC is working on. What does it look like when you construct these types of facilities? At the Mint Plaza, they have a wonderful restaurant, a Bluebottle coffee shop and a rain garden that collects sheet flow from the surrounding plaza area and infiltrates it into the landscape feature. Across the Bay, you'll find that a lot of the landscape areas that are being developed in Emeryville include stormwater treatments.

In Portland or Vancouver, they do a lot of treatments of roofs with vegetation. They're called green roofs. We'd like to see more of these along the waterfront.

We're currently using rainwater harvesting at the EcoCenter and at our concrete batching plants. The Exploratorium, whom we're currently working with on their redevelopment project, is also going to have a rainwater harvesting feature that they're going to be using for toilets.

Those are the types of approaches we're going to use to meet or comply with this post-construction control requirement. In doing, so we'll achieve compliance with the Clean Water Act permit. We hope to create some visually interesting and progressive designs for the waterfront that people take notice of.

One of the final requirements for the post-construction control program is that we actually have a means to administer and enforce. The State of California requires that we develop an ordinance. What that ordinance is going to do is give the Port the authority that we need. That authority is going to be vested in the Port Executive Director, although it's probably going to trickle down to other staff such as myself and the Chief Harbor Engineer.

The ordinance also specifies what types of projects must comply. There are exceptions for specific types of projects. For instance, Tina Olson presented the revenue bond projects, where there will be interior remodel and build-out, that's not something that we'd be concerned about for stormwater. Most of our tenant improvements inside of buildings are not going to have to worry about these guidelines. We're looking at where you're either doing a serious remodel where you're tearing down and rebuilding or you're building from scratch.

Once the projects are constructed, we need to see operations and maintenance, particularly for the vegetated systems. We don't want things growing wild and not providing the function that they were designed to provide.

We've also included a set of prohibited discharges, which is going to give the Port and PUC more strength in going after folks that are discharging materials into the storm sewer in violation of state and federal law. There are also provisions for enforcement and cost reimbursement if we don't get compliance from our permittees.

The Stormwater Control Plan is a document that shows the site plan and how the site is laid out in a way that looks at drainage features on the site and develops and designs the BMPs based on those features. It looks at the hydraulics of the site, what the amount of flow is that they're managing and how a landscape feature or other BMP needs to be sized in order to accommodate that flow.

He showed an example of a BMP that we hope to use on the southern waterfront. It's called permeable pavement. The rainwater basically passes through the pavement. The rainwater is captured and it can be either slowly filtered or sent to the combined sewer system for discharge.

As part of the Stormwater Guidelines, we're providing a lot of resources to planners and engineers. One of the things that we've done a lot of work on is a vegetation palette that helps people select landscaping elements. The vegetation palette was developed in conjunction with a lot of the local environmental stakeholders and the California Native Plant Society, and the Audubon Society. We feel we have a very good landscape guidance document that is going to receive a lot of support from professionals in San Francisco.

Finally, we've included sizing calculators to make it easier for the engineers and landscape architects to actually figure out how the stormwater elements are going to fit in with the buildings and the rest of the design.

We are already implementing the Stormwater Design Guidelines. We're currently working with the Exploratorium to implement post-construction features as part of that project at Pier 15 e.g. Stormwater Control Plan that will collect rainwater that will be used for toilets and flushing in that area. In addition, there will be stormwater filters along the roofline for most of the facility. We're removing a lot of fill in the central aisle way, which is going to reduce the amount of stormwater hitting hardscape and will also give the Port credit for stormwater compliance.

Another project we're looking at is Seawall Lot 337. The proposals that we received from the developer indicate extensive use of green open space and green roofs so we're expecting those negotiations with great anticipation, because it would be wonderful to see the green roofs manifesting in that neighborhood. It'll be a very nice feature.

We issued the document for public review in January 2009 and conducted public outreach as part of that issuance and received comments during the summer. We're in the process of incorporating those comments, and we also developed a draft stormwater ordinance that is included in the staff report. At our next meeting Port staff will seek Port Commission approval of that ordinance and a referral to the Board of Supervisors, and then it'll take another couple months to work through the Board of Supervisors process. Once the Board of Supervisors has completed their approval of the ordinance, we'll incorporate it into the Port Building Code. We are then ready to implement the Stormwater Design Guidelines.

Mr. Mundy thanked PUC staff for working with the Port over the last two and a half years especially Sarah Minnick from the PUC Wastewater Planning Bureau. She's been a great help. He also thanked staffs from the City

Planning Department, Department of Public Works and Port Planning Department, including David Beaupre. He's been a lot of help.

Commissioner Brandon asked what does this mean for the southern waterfront.

John Mundy replied that in 2002, we did a stormwater study for the southern waterfront. It was part of a supplemental EIR that was done for a lot of the new development that was underway then. The Southern Waterfront Stormwater Management Study, at the 50,000-foot level, considered a lot of what is now in the Stormwater Design Guidelines. We've taken what was basically an outline proposed in the Southern Waterfront Stormwater Management Study and we've beefed it up into a very detailed, very clearly articulated policy document. A lot of what we started in the southern waterfront for low-impact design and sustainable development is going to continue. The language and the approaches that we will use are going to be more expanded and actually have a better engineering basis.

Commissioner Fong recused himself on the next items that will be presented, and passed the gavel over to Commissioner Brandon.

B. Request approval to rescind Resolution No. 09-35 adopted by the Port Commission on July 14, 2009 (Resolution No. 09-59); and Ratify Prior Issuance of Request for Proposals Soliciting Marine Structural and Civil Engineering Services for the Pier 43 Bay Trail Link Project (Resolution No. 09-60)

ACTION: Commissioner Lazarus moved approval; Commissioner Hardeman seconded the motion. All of the Commissioners were in favor. Resolution Nos. 09-59 and 09-60 were adopted.

C. Request approval to award contract to Gerwick-SDE JV for design and engineering services for the Pier 43 Bay Trail Link Project in the amount not to exceed $728,300 plus a ten percent contingency amount of $72,830, for future change orders or contract modifications. (Resolution No. 09-61)

Norma Nelson, contract manager for the Port, indicated that this presentation will provide some background about the project, scope of services, selection process, and the contract award. The proposed contract will support the Pier 43 Bay Trail Link project. This project will create a public promenade and recreation area along the waterfront in San Francisco's historic Fisherman's Wharf. This project is one of the projects that is funded through the General Obligation Proposition, a Clean and Save Neighborhood Parks bond project that was passed by the voters in February 2008.

This project will provide investigation and engineering design services. The proposed contract is divided into three phases and with milestones for each of those phases that include a Phase 1, a preliminary engineering of which the

deliverable is going to be due by Friday, December 18, 2009. Phase 2 will include the final engineering, which will include all of the design documents to bid the project, and that will be due Friday, July 20, 2010. Phase 3 will be the bidding and construction phase of the project. We're anticipating the project to be completed by December 2011. The Port Project Manager and the Chief Harbor Engineer will approve each phase of the process and issuing of notices to proceed to the consultant.

The selection process entailed a Request For Proposals issued on July 29, 2009 with a due date of September 1, 2009. Oral interviews were scheduled for September 16, 2009. We received a total of four proposals and the selection panel interviewed all four proposers. The selection panel included five members. Two were Port staff employees and representatives from other City departments, including DPW and the San Francisco Public Utilities Commission.

The evaluation criteria included a number of factors, including project approach and staff experience of the prime as well as the subs. The interview process itself had a heavy emphasis on the clarity and quality of their project approach, and particularly their design solution and a risk management plan. The scores for the interview as well as the written proposal phase were divided 55% and 45% respectively, which resulted in the four firms being ranked as follows: (1) Gerwick-SDE joint venture number one; (2) Creegan & D'Angelo] geotechnical joint venture; (3) KPFF Consulting Engineers/Structus Association; and (4) Holmes Culley Tennebaum Manheim joint venture.

Staff is recommending a contract award to Gerwick-SDE joint venture in the amount of $728,300 with a contingency of 10%. Gerwick-SDE is a joint venture of which SDE is a local business enterprise certified by the San Francisco Human Rights Commission. The joint venture is going to operate with Gerwick receiving 40% out of the prime consultants contract proceeds and the LBE joint venture partner receiving 40% of the work. Gerwick is going to take the lead in the design of the seawall and the promenade as they have extensive experience in marine engineering. SDE is going to take the lead on the pier demolition and the repair of Pier 43 and evaluation of the Franciscan Restaurant, where they have previous experience in working as a consultant to that restaurant.

Given the participation of SDE at the prime consulting level and the 21% at sub-consulting LBE participation goal, we have a total local business enterprise participation of roughly 55.5% because the joint venture not only exceeded the 21% goal for sub-consulting LBE participation but they have committed to 26.5% sub-consulting participation with the combined joint venture participation.

Ms. Nelson requested the Port Commission's approval of the resolution awarding the contract to Gerwick-SDE joint venture in the amount of

$728,300 with a 10% contingency of $72,830 with a total contract authorization of $801,130.

Commissioner Brandon commended Ms. Nelson and thanked her for meeting and exceeding the LBE participation in this project. During her reappointment process, she was consistently questioned on this subject. So on every contract that comes before the Commission, she will be asking about the LBE participation. She thanked Ms. Nelson for making it easy.

ACTION: Commissioner Hardeman moved approval; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor. Resolution No. 09-61 was adopted.

11. REAL ESTATE

A. Request approval of resolution rescinding Resolution No. 09-48 adopted by the Port Commission on September 8, 2009 authorizing the award of separate leases for surface parking to: (1) Tower Valet Parking, Inc. for premises at Seawall Lot 301 (bounded by Taylor Street, Jefferson Street, and Powell Street) commonly known as the Triangle Parking Lot, and Seawall Lot 314 (bounded by the Embarcadero, Bay Street, and Kearny Street); and (2) Priority Parking-CA, LLC for premises at Seawall Lot 322-1(bounded by Front Street and Broadway) Seawall Lot 323 (bounded by Davis Street and the Embarcadero), Seawall Lot 321 (bounded by Front Street, Green Street and the Embarcadero), and Seawall Lot 324 (bounded by Davis Street, Front Street, and the Embarcadero). (Resolution No. 09-52)

ACTION: Commissioner Lazarus moved approval; Commissioner Hardeman seconded the motion. All of the Commissioners were in favor. Resolution No. 09-52 was adopted.

B. Request authorization to offer through competitive bid a three-year lease for surface parking at Seawall Lot 301 commonly known as the Triangle Parking Lot, bounded by Taylor Street, Jefferson Street, and Powell Street and SWL 314 bounded by the Embarcadero, Bay Street, and Kearny Street (Resolution No. 09-66)

Jeffrey Bauer, the Port's Leasing Manager, indicated that the Port owns a number of parking lots that it directly leases to parking lot operators. In 2007/2008 the Port received $7.7 million in revenue from these leases. The Port now is requesting to offer through a competitive bid process Opportunity A, which contains the Triangle Parking Lot and Seawall Lot 314.

The schedule for bid would be the issuance of the RFP on October 20, presubmittal meeting on October 29, 2009and the bids would be opened on November 18, 2009. Staff would conduct its due diligence from November 19 through the November 30, 2009 and make a recommendation to the Port

Commission at the December 8, 2009 Commission meeting. The lease is anticipated to require Board of Supervisors' approval.

The proposed lease would contain a lease term of three years with an annual adjustment of 3.5. The minimum bid would be minimum rent against 66% of the gross revenues net of parking taxes. The minimum opening bid would be $88,129.47. The lease would contain an expansion option giving the winning bidder the right to expand to Pier 45. Expansion rights would operate on a percentage-rent-only basis. The winning bidder would have to adhere to or comply with all City requirements, including the requirement to install revenue capture equipment at the lot.

There are special restrictions in the lease. The winning bidder would also have to provide a certain level of free validated parking during specific hours for a specific duration of time, which is more specifically memorialized in the staff report.

Port staff recommends that the Commission approve the attached resolution and authorize Port staff to offer through a competitive bid process the lease for Opportunity A.

Jeffrey Pollack, representing the Fisherman's Wharf Restaurant Association, asked the Commission to call a special hearing so that both the Port staff and the Fisherman's Wharf Restaurant Association can tell their positions on issuing an RFP on the Triangle lot. This can be either done by a full Commission or a subcommittee that can then report to the full Commission.

There is no way the Fisherman's Wharf Restaurant Association can present their positions in three-minute sound bites. They do not agree with Port staff that it is mandatory to issue an RFP on this triangle lot. He quoted off the May 19, 2009 letter that they sent to the Commission: "After reviewing the Port's report, Board of Supervisors Budget Analyst Harvey Rose, prepared his own report regarding strategies for the Port's month-to-month leases. In his report, Mr. Rose noted that certain month-to-month leases (approximately 122), such as Scoma's Restaurant Inc., for support parking have continued for over 30 years and that the Port staff was recommending that the Port should enter into new longer term agreements instead of month-to-month leases with this pool of tenants. As such, Mr. Rose concurred with the Port's recommendation. Mr. Rose noted that to address these month-to-month or holdover leases, the Port entered into an agreement with the Department of Real Estate to assign DRE staff to the Port to renegotiate new term agreements with these tenants. On January 8, 2009, consistent with the findings of both the Port staff and Mr. Rose that leases such as the Association's month-to-month should be renewed, the Port's Executive Director, Monique Moyer, provided this Commission with a Status Report of Month-to-Month and Holdover Property Agreements. In this report, Ms. Moyer repeated the Port staff's finding regarding negotiating month-to-month tenants into longer term leases at market rates and further noted that the

renegotiation of month-to-month leases in existence for more than ten years was of particular importance. Specifically, Ms. Moyer represented to the Commission the holdover lease project has been expanded to include a review and renegotiation of selected month-to-month leases, particularly those who have been in existence for more than ten years."

The association has been there for 27 years. Mr. Pollack asked if the Commissioners would have an answer on his request for a subcommittee or special hearing.

Nunzio Alioto, President of the Fisherman's Wharf Restaurant Association, indicated that after twenty-seven years of operating the Triangle Lot, Port management never gave the courtesy of a phone call or the opportunity to the Fisherman's Wharf Merchants Association to discuss issues regarding the Port management concerns prior to the RFP being approved.

As a matter of fact, Port management didn't even have a validation system as part of that proposal. As long-time respected tenants, they know how important a validation system is to their leaseholds. The Port, through its management, requested an audit and consulted with the Controller's Office, again never giving the tenants the courtesy or the opportunity to discuss Port management concerns. Now, they are aware of a draft report from the City Controller's Office, a draft that was requested by Port management. Again, they have not had the courtesy or the opportunity to respond prior to its release.

They will, however, respond paragraph by paragraph in a meeting scheduled with the Controller's Office to repute the errors, gaps, false allegations, findings, innuendo, the feigning and trying to discredit them as businessmen prior to this document being published.

Pier 39 and Scoma's are two major competitors. Pier 39 has 1,000 stalls. They pay the Port under $200,000 a year and they have a validation for all of their tenants. Scoma's Restaurant has 60 parking stalls. They pay no rent from their parking stalls. It is exclusive to Scoma's Restaurant – in other words, other percentage-rent tenants participate in their parking. They have no restriction for validation in terms of time.

The Triangle Parking Lot has 180 stalls. Nine percentage-rent businesses participate and generate over $50 million in income, $442,000 in rent and they have a validation system for one to two hours. Across the street from the Pier 1 office is the Port property parking lot where he's parked on numerous occasions; they have no mechanical car-counting equipment. Their validation system for Port management is validated by Port management business cards.

You can pay $15-20, then have the attendant attach a Port management business card and then he can pocket the cash. Other than the Port triangle

lot, no other audits have been requested by Port management of their parking lots according to the Controller's Office this morning. They believe this Commission should request an audit of all Port parking lots before any RFP is requested.

Gary Burns, Tarantino's Restaurant, indicated that if they are note allowed to be the operators of the parking lot, they ask that whomever the new operator will be that they be required by the Port to maintain the current level of car validations and the total number of cars parked there. The total car validations for 2008 were 128,000 and the total number of cars parked was 266,000. This new operator should be a provision in the lease; it should be incorporated in the lease that this operator maintains these levels. If he doesn't, or they don't, the Port could issue a warning and a thirty or sixty-day notice could be issued for them to comply.

Of greater importance are the rates that are charged at the triangle lot at Fisherman's Wharf. In the twenty-seven years they have operated at the rate that have been set by the Port Commission with a broad view of the city and the perception of the Wharf and who they are. The operator who had the RFP, who had the bid – and they don't know if he'll be the next one – told them in a staff meeting that he would raise the rates. Right now they're currently $2 dollars an hour. He'd make it $2 for half-hour or $4 an hour or he'd make it $10 an hour. For any type of special event or day of the year, he would adjust the rates any way he saw fit. As an example, this last weekend at the Tower Records parking lot, which is normally $15 a day, the operator was charging $40 a day for parking for people, for families, to park there to see the Blue Angels. This is the type of thing that gives them a real black eye. They've fought for years to keep away the perception that some might have that the Wharf is a rip-off. They need the Port's help there. They can do this. This is not Kansas City. This is San Francisco and you can massage that envelope and make sure that – we are a unique area, and you can look at us a little bit differently. We've been compared by staff members – not Monique – to the Waterbar or some new restaurant that's here on Port property. Well, they're not that. He's been there sixty years and he's the young one on the block. They're looking for the Port's help.

Frank Sabella indicated that his family has been operating a restaurant on Fisherman's Wharf for eighty years. They see no good reason that the Triangle Parking Lot should be bundled with another lot in an RFP. If the Triangle lot was put out for bid on an individual basis, they as an association would participate in the bid process. The Port would keep all the revenue after the expense of running the lot. The Port would be hard pressed to find an operator making a better offer than that. All they want is support parking for their restaurants, a professional operator taking care of their customers, and insurance that the current validation would stay in place. For 27 years, they have had a professional operator running a very difficult parking lot at a very peak efficiency benefiting the entire area – not just their restaurants, but everyone.

He asked that the Port Commission look at the big picture and the long-term consequences of its decision. The parking lot with one of those mechanical arms will park 30% less cars than what their current system does now – 30% less revenue to the Port, 30% less for their customers to get into that lot. That is really crucial to them. That lot is their livelihood. When those people come to San Francisco the people in those cars are local people. They're not the tourists from Kansas, New York, or other places. Those are people from San Jose, Fresno, Redding – those are the people that come in cars. Those are their steady customers, the backbone of their business. In spite of what people think, it isn't tourism from foreign countries and from other states – Northern California is what supports Fisherman's Wharf. Because they're old businesses, they have old clientele that have been coming for a long time that is why they do big business. That is why their numbers are so good.

If the Port takes away that lot and takes away the benefits to the families that are coming to them, they will back away and the Port will cause them their revenues and the Port will lose revenues.

Tony Charvet, manager of Triangle Parking Lot, indicated that he's been working for the City Parking Company for over twenty-seven years. There are many employees who have been with the company for 12 to 20 years. He was a parking attendant for the first two and a half years. After that time, he was made a manager and remain a manager to this day. They operate the Triangle Parking Lot most efficiently and honestly. They would like to keep their jobs.

Mark Gleason, Teamsters Local 665, indicated that they represent the workers, Tony included, on the Triangle Parking Lot. They got involved in this some weeks ago because they were concerned about adherence to the retention of employees provisions that are required on these properties. They appreciate working with Port staff. Port staff have heard their concerns and they have great hopes as they go through this process. Those workers are going to enjoy retention and future employment there. With the current economic environment, double-digit unemployment, the alternative is not something that anyone would look forward to. They appreciate others who supported them. He knows the gentleman with the Fisherman's Wharf Restaurant Association. They've been very supportive of their members. He asked the Commission to consider some kind of forum to give them a larger time to be able to talk about what their concerns are. They seem to have very genuine concerns. He's appreciative of the staff's concern for their members and he's appreciative to the Restaurant Association's support of their members. He hopes that the Port Commission take their comments under consideration.

Jeffrey Bauer indicated that under the new lease, we are proposing to provide the same levels of free validated parking to the existing members of the Fisherman's Wharf Restaurant Association, but we also intend to broaden that to a larger number of Port retail tenants that currently are not able to

participate in the lot. We're also looking to modernize the lot. We want an operator who will operate the lot in a more modern business-like way and will provide revenue capture equipment, which is a requirement of the City. We also intend to approve a customer service and operation policy that is an attachment to the lease to ensure that it is operated in an efficient way but also in a customer-service-oriented way.

Commissioner Brandon added that Port staff will work with the Restaurant Association. Mr. Bauer replied affirmatively.

Commissioner Hardeman asked about the mechanized entrance at the parking lot. A few of the tenants that are affected by this have stated repeatedly that they think this will slow down, on a busy day, access to the parking lot and create back-ups for streetcars, buses, etc. He does not know how to respond to them, so he asked Mr. Bauer to shed some light on this issue.

Jeffrey Bauer indicated that the lot is currently being run with one entrance on Taylor Street and not run as it probably should be i.e. having another entrance on Jefferson Street. If there are two entrances and if you had a gate and you also accepted cars at will to come into the lot, get a ticket from a machine, then if they eat at a restaurant that provides validation it's run through a computer system to verify that and there should be no backup. Pier 39, for example, operates in a similar manner and they have no backup or maybe for special events, but in the normal course of their operations he has not seen that they experience backup. The Stockton Street Garage and other lots around the city have high volume and do not experience that. He thinks what may slow it down is an attendant approaching the car and wanting to know where they're going to park and where they're going to visit, as opposed to a machine and a ticket so the lot could be made available to more customers.

Commissioner Hardeman indicated that to him the most compelling thing is the workers. It's sort of sad to see these workers not being given any guarantees. There was a group of them here at the last meeting. Mr. Gleason described it best, in these economic times people have been loyal, hardworking. He parks there all the time. He uses the validation a lot when he goes to the tenants' restaurants. They're real good workers. They're always friendly. They do a good job. To him, that is a real high priority, that whatever comes back to this Commission those workers are given the highest consideration and continued employment.

Jeffrey Bauer replied that the lease will contain the Displaced Workers Act, which guarantees a ninety-day employment period. Port staff have been speaking with Local 665, trying to understand their concerns. The people that work at the triangle lot are no strangers to him or to Port staff. We hope that when the bid process plays out, we'll get a large operator in the lot and

hopefully there will be opportunities for the current workforce to work in the lot.

ACTION: Commissioner Hardeman moved approval; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor. Resolution No. 09-66 was adopted.

C. Request approval of waiver of Port fees for the Memorial Service for Donald Fisher at Pier 30/32 to be held on Friday, October 23, 2009, sponsored by Mayor Gavin Newsom, the family of Donald Fisher and Gap, Inc. (Resolution No. 09-65)

The Commission Secretary announced that this item has been taken off the calendar.

12. NEW BUSINESS

Commissioner Hardeman indicated that he watched the rerun of our Commission meeting and was very impressed. He had a couple of people commenting, one being Chris Cunnie, the chief investigation officer for Kamala Harris in the DA's Office, that he couldn't take his eyes off watching the meeting because of all the ships and the ferryboats passing by and indicated that we have the coolest meeting. The technicians did a great job in taping the meeting. The filming was good, and he thought that our Commission had the smoothest operation by our staff. He congratulated everybody for a job well done. We looked pretty good in that. He enjoyed it and he enjoyed hearing other people agree with him.

Ms. Moyer thanked Commissioner Hardeman for sharing that information. She, too, have had some very positive feedback from folks who can't always attend the meetings who are watching. She has yet to receive any negative feedback.

Commissioner Brandon nominated Peter Dailey to represent the Port of San Francisco at the AAPA Convention on October 28, 2009. Commissioner Hardeman seconded the motion. All of the Commissioners were in favor.

Commissioner Fong indicated that he has one bit of new business that he wanted to make a pitch for, the KQED documentary, Saving the Bay, which premiered. He had an opportunity to get a little preview and saw the first one on TV. If anybody is TiVo-ing it or recording it, it's fantastic and is a great story for all of us, to be able to become more educated, to tell the story about how San Francisco Bay evolved over millions of years, where it's come over the last decade and maybe where it's going to go in the next coming decade. He encouraged everyone to check it out.

Monique Moyer added that last Thursday, KQED showed segments one and two. This coming Thursday will be segments three and four on KQED at 8:00pm. Parts three and four will be about the ports of San Francisco and Oakland so it will only get more interesting as we go forward. The producer, Ron Blatman, has generously offered to do a showing at the Port, which we will coordinate and will let

the Commission know when it's set. We are hoping that we will be allowed to, on his behalf, sell some of the DVDs through our kiosk that's in the lobby. It's an outstanding, interesting and extremely educational forum.

Ms. Moyer indicated that our beloved AB1176 was vetoed by the Governor. It did not survive the rash of vetoes, so we will try again.

13. PUBLIC COMMENT

14. ADJOURNMENT

ACTION: Commissioner Lazarus moved approval to adjourn the meeting; Commissioner Brandon seconded the motion. All of the Commissioners were in favor.

Commission President Rodney Fong adjourned the meeting at 4:47 p.m.

SAN FRANCISCO PORT COMMISSION

Rodney Fong, President
Stephanie Shakofsky, Vice President
Kimberly Brandon, Commissioner
Michael Hardeman, Commissioner
Ann Lazarus, Commissioner

Monique Moyer, Executive Director
Phone: 415-274-0400; Fax: 415-274-0412

Amy Quesada, Commission Secretary
Phone: 415-274-0406; Fax: 415-274-0412

AGENDA
TUESDAY, OCTOBER 27, 2009
2:30 P.M. CLOSED SESSION
3:15 P.M. OPEN SESSION
PORT COMMISSION HEARING ROOM, SECOND FLOOR
FERRY BUILDING, SAN FRANCISCO, CA 94111

27/09

PLEASE NOTE THE TIME OF THE MEETING

The Port Commission Agenda as well as Staff Reports/Explanatory Documents available to the public and provided to the Commission are posted on the Port's Website at www.sfport.com. The agenda packet is also available at the Pier 1 Reception Desk.

If any materials related to an item on this agenda have been distributed to the Port Commission after distribution of the agenda packet, those materials are available for public inspection at the Port Commission Secretary's office located at Pier 1 during normal office hours.

GOVERNMENT
DOCUMENTS DEPT

OCT 23 2009

SAN FRANCISCO
PUBLIC LIBRARY

1. **CALL TO ORDER / ROLL CALL**

2. **APPROVAL OF MINUTES** - October 13, 2009

3. **PUBLIC COMMENT ON EXECUTIVE SESSION**

4. **EXECUTIVE SESSION**

   A. Vote on whether to hold closed session to confer with Legal Counsel and Real Property Negotiator.

      (1) CONFERENCE WITH LEGAL COUNSEL REGARDING ANTICIPATED LITIGATION MATTER (DISCUSSION & ACTION ITEM)

         a. Discuss anticipated litigation matter pursuant to Sections 54956(b)(1) and 54956(c) of the California Government Code and Section

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67.10(d) of the San Francisco Administrative Code. (Discussion and Action Item)

Number of potential cases: 1 as Defendant; 1 as Plaintiff

5. RECONVENE IN OPEN SESSION

A. Possible report on actions taken in closed session pursuant to Government Code Section 54957.1 and San Francisco Administrative Code Section 67.12.

B. Vote in open session on whether to disclose any or all executive session discussions pursuant to Government Code Section 54957.1 and San Francisco Administrative Code Section 67.12.

6. ANNOUNCEMENTS

A. **Announcement of Prohibition of Sound Producing Devices During the Meeting**

Please be advised that the ringing of and use of cell phones, pagers, and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic device.

B. **Announcement of Time Allotment For Public Comments**

Please be advised that a member of the public has up to three minutes to make pertinent public comments on each agenda item unless the Port Commission adopts a shorter period on any item.

7. EXECUTIVE

A. Executive Director's Report
- Pier 30/32 Load Limits
- Universal Recycling and Composting Ordinance
- Trucking Law
- Sea Lions at Hyde Street Harbor
- Update on the October 14, 2009 Community Meeting regarding Darling International's Proposed Biodiesel Project on Amador Street
- Urban Land Institute National Fall Meeting - November 4-6, 2009
- San Francisco Planning Department and SPUR's *"Planning on the Edge ... of the Continent"* - November 4, 2009
- State of the Media Conference – November 6, 2009 at Pier 1
- 2009 Beautification Award Winner – Pacific Waterfront Partners for the Pier 1½, 3 and 5 Project

8. PLANNING & DEVELOPMENT

A. Informational Presentation by the Department of City Planning regarding the Northeast Embarcadero Study.

9. REAL ESTATE

A. Request approval of partial fee waiver of $208.34 per month and security deposit waiver of $416.68 for License to Use Property No. 14527 between the Port of San Francisco and the Pilara Family Foundation, a Nevada Non-Profit Corporation for premises located at the Pier 24 Annex. (Resolution No. 09-67)

10. NEW BUSINESS

11. PUBLIC COMMENT

Public comment is permitted on any matter within Port jurisdiction and is not limited to agenda items. Public comment on non-agenda items may be raised during New Business/Public Comment. A member of the public has up to three minutes to make pertinent public comments before action is taken on any agenda item and during the new business/public comment period. It is strongly recommended that public comments be submitted in writing so they can be distributed to the Commissioners for their review. Please fill out a speaker card and hand it to the Commission Secretary. If you have any question regarding the agenda, please contact the Commission Secretary at 274-0406.

12. ADJOURNMENT

FORWARD CALENDAR (Targeted Commission meeting, subject to change)

- Accept report on Contracting Activity Report - Fiscal Year 2009/10 for the First Quarter Period July 1, 2009 - September 30, 2009 (November 10, 2009)
- Request approval of award of contract to a Cruise Terminal Design Consultant for Architectural and Engineering Services for the Pier 27 Cruise Ship Terminal (November 10, 2009)
- Request authorization to award Contract No. 2735, Security Lighting Project at Pier 80 (November 10, 2009)
- Request authorization to award Pier 45 drainage improvements project (November 10, 2009)
- Request approval to amend a contract with Forell/Elsessler Engineers, Inc. to implement Phases 2 & 3 of contract previously awarded under Resolution No. 07-65 for Pier 35 Substructure Repairs; increasing the contract amount by $550,000 and extending the contract term up to three additional years (November 10, 2009)
- Request approval of the Port's FY 2009-10 Employment Training Program (November 10, 2009)
- Informational presentation regarding proposed water taxi service at the Port of San Francisco (December 8, 2009)
- Informational presentation on the revisions to the Port's Building Code (December 8, 2009)
- Request approval of First Amendment to Lease No. L-14282 with the San Francisco Bar Pilots Benevolent and Protection Association at Pier 9 (December 8, 2009)
- Request approval of the Stormwater Design Guidelines and Stormwater Ordinance (December 8, 2009)
- Request authorization to advertise for competitive bids for Contract No. 2736, Marine Structural Projects II, for repairs at Hyde Street Harbor and the Ferry Building North Plaza (December 8, 2009)
- Request approval to include the Port's waterfront parks projects in the second issuance of the 2008 Clean and Safe Neighborhood Parks Bond (December 8, 2009)
- Informational presentation of an outline for a possible Waterfront Arts Program, located at several sites along the entire length of the waterfront (Date to be determined)
- Informational presentation on the Revised Preferred Master Plan for Pier 70 and development solicitation process (Date to be determined)
- Request authorization to enter into an Exclusive Negotiation Agreement with Seawall Lot 337 Associates, LLC to explore a mixed-use development project at SWL 337 and Pier 48 (Date to be Determined)
- Request approval of the Port's Interim Leasing Policy for Historic Structures (Date to be determined)
- Request authorization to enter into a Memorandum of Understanding with the San Francisco Municipal Transportation Agency for the Port of San Francisco to relinquish its rights to cargo freight rail service north of Cesar Chavez along Illinois Street (Date to be determined)

COMMUNICATIONS TO THE PORT COMMISSION FROM OCTOBER 9-22, 2009:

- From Jonathan Alba, Esq., the Cronin Law Group, regarding Next Seafood, Inc.'s Tenancies – Pier 45, Shed D-3

NOVEMBER/DECEMBER 2009
CALENDAR OF UPCOMING PORT MEETINGS – OPEN TO THE PUBLIC

DATE	TIME	GROUP	LOCATION
Nov. 10	2:00 p.m.	Closed Session/Port Commission	Port Commission Room
	3:15 p.m.	Open Session	@ Ferry Building
Dec. 8	2:00 p.m.	Closed Session/Port Commission	Port Commission Room
	3:15 p.m.	Open Session	@ Ferry Building

NOTES:

The San Francisco Port Commission meets regularly on the second and fourth Tuesday of the month at 3:15 p.m., unless otherwise noticed. The Commission Agenda and staff reports are posted on the Port's Website @ www.sfport.com. Contact Amy Quesada at 274-0406.

The Fisherman's Wharf Waterfront Advisory Group (FWWAG) meets regularly on a bi-monthly basis, on the third Tuesday of the month. The regular meeting time and place is 9:00 a.m. at Scoma's Restaurant, Pier 47 at Fisherman's Wharf. Contact Michael Nerney @ 274-0416 or michael.nerney@sfport.com

The Maritime Commerce Advisory Committee (MCAC) meets on a quarterly basis, on the third Thursday of the month, from 11:30 a.m. to 1:00 p.m. @ Pier 1. Contact Jim Maloney @ 274-0519 or jim.maloney@sfport.com

The Mission Bay Citizens Advisory Committee meets regularly on the second Thursday of the month, from 5:30 to 7:30 p.m. at the Mission Bay Visitor Center (255 Channel Street). Contact Catherine Reilly, Assistant Project Manager, Redevelopment Agency, @ 749-2516 or Catherine Reilly/REDEV/SFGOV@SFGOV

The Northeast Waterfront Advisory Group (NEWAG) meets regularly on a bi-monthly basis on the first Wednesday of the month from 5:00 p.m. to 7:00 p.m. in the Bayside Conference Room @ Pier 1. Contact Jonathan Stern @ 274-0545 or jonathan.stern@sfport.com

The Central Waterfront Advisory Group (CWAG) meets monthly on an as-needed basis, generally on the third Wednesday of the month from 5 to 7 p.m. in the Bayside Conference Room at Pier 1. Contact Mark Paez @ 705-8674 or mark.paez@sfport.com

The Rincon Point-South Beach Citizens Advisory Committee meets on a quarterly basis, from 5:00-7:00 p.m. at the South Beach Yacht Club (Pier 40 on The Embarcadero). Contact Catherine Reilly, Assistant Project Manager, Redevelopment Agency, @ 749-2516 or Catherine.Reilly/REDEV/SFGOV@SFGOV

The Southern Waterfront Advisory Committee (SWAC) meets every last Wednesday of the month from 6:15 to 8:15 p.m. Location to be determined. Contact David Beaupre @ 274-0539 or david.beaupre@sfport.com

The Waterfront Design Advisory Committee (WDAC) meets jointly with the Design Review Board of the Bay Conservation and Development Commission on the first Monday of the month at BCDC, 50 California Street, Rm. 2600, at 6:30 p.m. The Committee meets as needed on the fourth Monday of the month at 6:30 p.m. in the Bayside Conf. Rm. @ Pier 1. Contact Dan Hodapp @ 274-0625 or dan.hodapp@sfport.com

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FERRY BUILDING:

The Port Commission Hearing Room is located on the second floor of the Ferry Building. The main public entrance is from the west (Embarcadero) side and is served by a bank of elevators adjacent to the historic staircase. Accessible public restrooms are on the first floor at the northeast end of the building as well as on the second floor across the lobby from the Port Commission Hearing Room. The main path of travel to the Port Commission Hearing Room is equipped with remote infrared signage (Talking Signs). The Port Commission Hearing Room is wheelchair accessible. Accessible seating for persons with disabilities (including those using wheelchairs) is available. The closest accessible BART and MUNI Metro station is Embarcadero located at Market & Spear Streets. Accessible MUNI lines serving the Ferry Building area are the F-Line, 9, 31, 32 and 71. For more information about MUNI accessible services, call (415) 923-6142. The nearest accessible parking is provided in the following off-street pay lots:

A) 3 spaces in the surface lot on the west side of the Embarcadero at Washington St.
B) Hourly and valet parking in the Pier 3 lot. This lot is accessed through the Pier 3 bulkhead building entrance on the east side of the Embarcadero. This lot is located on the pier deck; adjacent to the ferry boat Santa Rosa.

Additional covered accessible off-street pay parking is available in the Golden Gateway Garage, which is bounded by Washington, Clay, Drumm and Battery Streets. Entrance is on Clay St. between Battery and Front Streets. There is no high-top van parking. Metered street parking is available on the Embarcadero, Washington, Folsom & Drumm Streets.

PIER 1:

The Port's fully accessible offices are in the west end of Pier 1. There are two public entrances; the main entrance on the west (Embarcadero), and the Port History walk entrance on the south apron. Each of these entrances is provided with an automatically operated door. Both entrances lead to the Bayside conference rooms. Accessible public restrooms, drinking fountains, payphone and TTY are on the first floor near the main entrance. The public spaces of the Port's offices are equipped with remote infrared signage (Talking Signs) identifying all primary entrances, paths of travel, meeting rooms and amenities. Accessible seating areas and assistive listening devices will be available in the Bayside Conference rooms.

Accessible meeting information policy:

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals.

A sign language interpreter and alternative format copies of meeting agendas and other materials can be provided upon request made at least 72 hours in advance of any scheduled meeting. Contact Wendy Proctor, Port's ADA Coordinator, at 274-0592, the Port's TTY number is (415) 274-0587.

Know Your Rights Under the Sunshine Ordinance:

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact Frank Darby by mail: Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at (415) 554-7724; by fax at (415) 554-7854 or by email at sotf@sfgov.org. Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, at http://www.sfgov.org/sunshine.

NOTICES

Prohibition of Ringing of Sound Producing Devices:

The ringing of and use of cell phones, pagers, and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic device.

Lobbyist Registration and Reporting Requirements:

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Government Conduct Code Sections §2.100 – 2.160) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness, Suite 3900, San Francisco, CA 94102, phone (415) 581-2300 or fax (415) 581-2317; web site: www.sfgov.org/ethics.

PORT OF SAN FRANCISCO

MEMORANDUM

October 21, 2009

TO: MEMBERS, PORT COMMISSION
Hon. Rodney Fong, President
Hon. Stephanie Shakofsky, Vice President
Hon. Kimberly Brandon
Hon. Michael Hardeman
Hon. Ann Lazarus

FROM: Brad Benson
Special Projects Manager

SUBJECT: Informational Presentation by the Department of City Planning regarding the Northeast Embarcadero Study

DIRECTOR'S RECOMMENDATION: Informational Only; No Action Required

Overview

On February 24, 2009 the Port Commission directed staff and San Francisco Waterfront Partners (SFWP) to support and participate in a community planning process led by the San Francisco Planning Department, as recommended in a February 19, 2009 letter from San Francisco Board of Supervisors President David Chiu. The planning area includes Seawall Lot (SWL) 351 and the adjacent Golden Gateway Tennis and Swim Club site, as well as four additional Port seawall/parking lots to the north, on the west side of The Embarcadero, between Broadway and North Point Streets: SWL 323/324, SWL 322-I, SWL 321, and SWL 314 (Study Area). The Port Commission has authorized exclusive negotiations with SFWP to explore including SWL 351 in a mixed-use development project in combination with the Golden Gateway site, located at the southwest corner of The Embarcadero and Washington Street (Port Commission Resolution 09-12).

The San Francisco Planning Department's Northeast Embarcadero Study (NES) is evaluating these sites and the public realm on the land side for the Embarcadero from Washington Street to North Point Street. The Planning Department has held four public meetings, summarized below, to solicit public comments and input. At a September 30, 2009 public workshop, the Planning Department staff presented draft recommendations, which are presented in Attachment A to this report.

This Print Covers Calendar Item No. 8A

Planning Director John Rahaim will make an informational presentation at the October 27, 2009 Port Commission meeting regarding the planning process, the draft recommendations, and the remaining steps to complete this project.

Northeast Embarcadero Study (NES) Planning Process

The Northeast Embarcadero Study was initiated by Supervisor Chiu, is funded by the Port of San Francisco, and is led by the San Francisco Planning Department. The Study duration is approximately 8 months and includes an outreach component that runs throughout the Study's entire timeline.

The NES Planning Process intends to guide the future development of properties along the west side of the Embarcadero, generally from Market to North Point. The study will focus on the Port's properties between Washington and North Point that are currently being used as parking lots. The Department is considering appropriate areas beyond these immediate sites in order to more fully understand the context and the role the Port properties play on The Embarcadero and in the larger city fabric. The guidelines developed as a result of the study will be applied to new development within the Study Area, including recommendations to improve the public realm on the west side of The Embarcadero to create strong connections between neighborhoods as well as across The Embarcadero to the Bay.

Study Goals

The urban design recommendations produced through the NES Planning Process aim to create a 'sense of place' to ensure that new development strengthens The Embarcadero, elevates place, and is sensitive to context. Great waterfronts around the world all share an emphasis on gracious linear promenades, strong architecture that frames the open space, and a rhythmic progression of intimate open spaces that heighten the experience of both the built edge and the water beyond. Ultimately, the study will create a public realm plan and design guidelines that will:

1. Ensure strong connections (both to the neighborhoods to the west and across The Embarcadero to the Bay);

2. Use building siting, massing, articulation and quality materials to reinforce the pedestrian realm and create a distinct sense of place unique to the Northeast Embarcadero;

3. Maintain a strong and active street frontage; and

4. Recommend appropriate streetscape designs to provide attractive, safe and inviting sidewalks and footpaths.

Planning Process – Status Report

The Planning Department has held a series of public workshops, summarized below. Further details on the public presentations and information used in the NES are posted on their website, http://nes.sfplanning.gov.

Summer 2009: Community Discussion: Listening

On May 27, June 23, and June 30, 2009 community members convened for the Study's first round of community workshops. The purpose of these workshops was to describe NES goals, expected products and timeline, and to discuss the community's vision for the area. Through comments made at these meetings, or from letters sent via mail and email, the Planning Department received over 300 comments on the Study.

Fall 2009: Planning Department's Preliminary Recommendations

On September 30, 2009 the Planning Department hosted a walking tour of the area and presented its preliminary recommendations for open space, improvements to the public realm, and urban design guidelines for the Northeast Embarcadero. Through small group discussions following the presentation, community members reviewed the Study's 'Fundamental Design Principles and Initial Recommendations for the Northeast Embarcadero Waterfront,' as well as a number of alternatives for the appropriate height and massing on key parcels in the study area. The Planning Department's presentation and NES proposed Principles and Initial Recommendations are presented in Attachment A. The Planning Department is preparing a detailed summary of community comments received for this phase of work. Planning Department Director John Rahaim will present information on this work at the October 27, 2009 Port Commission meeting, as well as provide information on the next steps to completing this project.

Prepared by:	Diane Oshima, Assistant Deputy Director Waterfront Planning
For:	Byron Rhett, Deputy Director Planning and development

ATTACHMENT A

Fundamental Design Principles and Initial Recommendations for the Northeast Embarcadero Waterfront

Introduction

The San Francisco Planning Department is in the process of developing a number of policy recommendations regarding city pattern, height, urban form, use and open space in the Northeast Embarcadero Study Area. These recommendations will give full consideration to the great variety of public comments gathered during the first round of workshops held by the Department. They will also reflect the fundamental principles of urban planning and design drawn from the City's General Plan and from the best practices of cities across the continent and around the world.

This paper outlines fundamental planning and design principles and describes how they can be best applied in the Northeast Embarcadero. Data and analysis used to develop the recommendations, to the extent possible, will be made available for public review. Where relevant, the Planning Department has drawn upon examples from comparable cities with urban waterfront qualities expressed in public workshops as desirable for San Francisco. Finally, the paper below identifies a series of design principles for consideration and includes the Planning Department's recommendations on how best they might be applied.

Building along the Waterfront

San Francisco's historic pattern of a moderately scaled, dense city fronting the working waterfront across The Embarcadero remains fundamental to its character.

The relationship between the city and the water's edge is replicated in most comparably-scaled great waterfront cities of the world, including Chicago, Barcelona, Hamburg and Stockholm. In Hamburg, for example, the city is in the process of a major urban expansion along former piers and shipping canals that has established six- to seven-story buildings along most of the water's edge, linked by a gracious public promenade and punctuated by periodic open spaces. Similarly, Stockholm's waterfront, along both the historic center and the contemporary expansions, is defined by stately seven-story buildings either across the street from, or immediately adjacent to, a public promenade and the water's edge.

Vancouver has pursued a different model of urban waterfront development that was a response to the unique circumstance of very large waterfront parcels being owned by the government. The large open spaces that grace Vancouver's waterfront were paid for by allowing very tall, very high density housing immediately adjacent to the new open spaces. The density of the development was also necessary to ensure the parks and community centers and other new public amenities are well-used.

As a final example, Chicago's waterfront offers several lessons, but presents some significant challenges as well. First, the waterfront adjacent to the downtown is defined by very tall office and residential towers, built almost to the water's edge. This would be the most analogous comparison to this section of the Northeast Embarcadero. Second, Grant Park, located to the south of the downtown, combines an urban promenade and bucolic park landscape in a way that would be almost impossible to replicate in San Francisco, primarily because the Embarcadero

Promenade, which runs on the east side of the roadway, is divorced from the potential new open spaces, which are on the west. That is, new open space on the west side would not significantly enhance the waterfront experience because the two would remain separate open space systems.

Past experience in creating strong and compelling pedestrian routes has demonstrated that significant breaks in the continuity of the building edge, as with open space or surface parking, would weaken The Embarcadero's pedestrian character, while also undermining San Francisco's historic pattern. The community feedback has clearly expressed a strong desire for The Embarcadero, particularly the western sidewalk, to become more pedestrian oriented.
The Planning Department believes that improving the strength of the pedestrian character along The Embarcadero should be one of the Northeast Embarcadero Study's highest priorities and will make urban form and public realm improvement recommendations to achieve this.

Preliminary Recommendation
Although the Northeast Waterfront has transitioned away from a working waterfront, the fundamental character of the city connected to the Bay through a continuous or nearly continuous urban edge at the western edge of The Embarcadero must be maintained and strengthened by encouraging new development on now-open parcels.

Respecting San Francisco's Topography

Topography is a defining San Francisco feature, especially for neighborhoods such as Telegraph Hill and Russian Hill. To weaken the visual prominence of the city's hills and ridges would weaken one of San Francisco's basic images.

As a general principle, buildings and structures that accentuate the rise and fall of topography through their own height and bulk serve to celebrate important landforms, such as Telegraph Hill. More specifically, Coit Tower set atop Telegraph Hill provides one of the iconic views in the city. Its appearance and disappearance as one travels along the Embarcadero, through North Beach or along the northern waterfront orients the traveler and provides a suggestion of what may be waiting ahead. Such periodic or episodic sitings should remain and be celebrated by any additions to the built environment.

This principle is not isolated to natural topography. The downtown district represents a human-made hill that has been sculpted to gently rise and fall to mimic the natural features that punctuate the city's landscape, and therefore should be paid the same respect in terms of visual prominence and design integrity. Failure to do so would promulgate visual incoherence and an overall diminishment of the intended aesthetic quality. New development should not result in jarring changes in scale from the existing context, and, to the extent possible, should provide a smooth transition within the overall urban form.

Similarly, the Bay and the ocean define San Francisco's edge and therefore bring legibility to the city's overall pattern. This can be compared with San Francisco's southern boundary, which has little to distinguish it. Further, water as a defining edge can be strengthened by moderately scaled development that frames the waterfront and contrasts with the open expanse of San Francisco Bay.

Preliminary Recommendation
Public views of Telegraph Hill generally, and Coit Tower in particular, from The Embarcadero must be acknowledged and respected. Views of Coit Tower from certain locations are a defining

element of the Northeast Embarcadero and of the city and should be preserved. Urban design guidelines should protect these views to the extent possible. Similarly, public views from the hills and ridges above the Northeast Waterfront to The Embarcadero, the Ferry Building and San Francisco Bay must be considered and respected.

Strengthening the City's Pattern

The continuity or near continuity of San Francisco's street grid, including its extension across hills and to the water's edge, is fundamental to the city's pattern and an inseparable city image to residents and visitors.

Providing views down streets to important civic buildings, open spaces and waterfronts is a fundamental principle of city design, and they remain some of our most memorable experiences when moving through a city. In many older cities, unusual street alignments provide numerous opportunities for such views; indeed, the Parisian boulevards were designed to open up new views. San Francisco, along its Northeast Waterfront, already has a number of views that terminate at important water basins or the historic bulkhead buildings. Providing new view opportunities, or further strengthening existing ones, should be a priority.

In addition to visual access, improving the number and quality of pedestrian connections to The Embarcadero should be sought. The pedestrian's expectation to be able to travel along a street without confronting a blocked path is one of the most gracious aspects of San Francisco. It is also one of the qualities most admired in world class cities - the opportunity for people to freely move about from one destination to another via attractive, safe and comfortable pedestrian routes. This is true whether one is in Barcelona, Paris, Copenhagen or Melbourne. Past development in the Northeast Waterfront has disrupted this pattern through the closing of streets or by development that has been allowed to encroach into the rights-of-way or former rights-of-way.

Thinking of our public ways from the pedestrian's perspective will only grow in importance as San Francisco endeavors to plan for a greener, more sustainable and less energy-intensive future. This larger effort will include creating inviting and safe pedestrian routes, locating more residences close to transit, employment, shopping and recreation opportunities, and strengthening multimodal connections to surrounding neighborhoods. The Northeast Waterfront, with its proximity to downtown and the associated access to local and regional transit, should play a role in this effort.

Preliminary Recommendation

The Embarcadero Waterfront should be strongly connected visually to adjoining neighborhoods along all streets that terminate at the Bay, and there should be pedestrian access to The Embarcadero along all streets. Therefore, the streets leading into The Embarcadero from the west – including Clay, Jackson, Pacific, Vallejo, and Union – should be opened to public pedestrian access and allow views to the waterfront. This access may be the result of an easement across privately-owned land, or an extension of the public way across publicly-owned land. Establishment or reestablishment of these accessways would be expected to happen over time as opportunity arises, and would not come about through the indiscriminate removal of current development or uses. Where a physical connection exists but a visual connection is not possible, signage needs to clearly indicate that pedestrians can access the waterfront via the designated route. Likewise, where intersecting streets lead out from The Embarcadero to destinations

inland, such as North Beach, Chinatown, Telegraph Hill and the like, these connections should be clear and clearly marked.

Recognizing the City-Wide Role of the Northeast Waterfront

The Northeast Embarcadero Waterfront is a resource of city-wide, regional and state-wide significance, and the importance of this resource must be respected.

The Bay and the City's connection to it are indelible pieces of San Francisco's history. A great deal of activity was always central to this part of the waterfront, whether as the point where freight was transferred to and from ships, where goods were warehoused, or where people first arrived in San Francisco or disembarked for points around the globe.

The unique role waterfronts play in all waterfront cities elevates their prominence relative to other city districts and requires special consideration of the use and design of properties along their edge. The public promenade that lines Vancouver's entire waterfront, coupled with striking high-rise towers adjacent to its downtown, exemplifies this civic importance. Similarly, Hamburg's rejuvenation of former docklands, Amsterdam's Borneo and Java projects, London's River Walk and Toronto's Waterfront Revitalization Project also reflect the civic centrality of waterfronts.

This special consideration extends to the amount and nature of public open space built on the waterfront and the balance between local and regional destinations. There are few examples of downtown waterfronts with large open spaces that do not also have a tremendous number of very tall residential and commercial towers. Chicago, Vancouver, Miami, and Toronto are North American examples. Few, if any, major European cities have chosen to maintain such large open spaces along their waterfronts and more typically build moderate density, mid-rise buildings connected by a gracious public promenade and periodic parks and plazas. Stockholm, Hamburg, London, Copenhagen, and Rotterdam are examples.

Preliminary Recommendation

The use of land and design of buildings along the Northeast Embarcadero should be based on the needs defined by the larger public context. The demands of financial expediency or preferences of the local community should not dominate the decision-making process; in addition to the civic centrality of the area, the area's proximity to major transit infrastructure, the downtown and other major destinations must be carefully weighed before any final solution is adopted. Therefore, surface parking and above-grade structured parking is inappropriate here and the existing surface parking should be phased out from this significant location. To the extent that parking is needed in this area, it must be below grade or accommodated in adjacent develop, and/or managed by strong on- and off-street parking management programs.

Providing Public Open Space

Adequate public open space and public recreational facilities are fundamental needs in all San Francisco neighborhoods.

The Bay, the piers and bulkhead buildings and the Embarcadero Promenade constitute a neighborhood, city-wide and regional open space resource equal to any in the world. Indeed, they are part of a larger unbroken network of open spaces that stretches from AT&T Park through to the Golden Gate Bridge, and link such regional destinations as Crissy Field, Marina

Green, Fort Mason, Fisherman's Wharf, Coit Tower, the Ferry Building and the entire southeastern waterfront. The proposed Northeast Waterfront Plaza on Pier 27 will constitute a significant additional open space resource on The Embarcadero. This system represents an open space resource very few neighborhoods in the city have such direct access to.

The recently updated draft of the Recreation and Open Space Element analyzed the open space needs for the entire city using peer-reviewed and widely accepted methods. The analysis determined that the study area is not a 'high need area' for the acquisition of open space. An analysis of the distribution of different types of open space in the City, however, did determine that the area's proximity to active open space (e.g. basketball courts) and playgrounds does not meet the City's standard.

Preliminary Recommendation

This part of the city has access to some of the most stunning open spaces found along any waterfront, and the anticipated improvements will only further enhance the quality of the public realm.

This study envisions a number of new small- to medium-sized publicly accessible open spaces to be part of any development built on the study parcels. Taken together with the substantial upgrade to the western sidewalk of The Embarcadero anticipated in this study, there would be a string of open spaces offering a unique and greener pedestrian walkway as an alternative to the eastern promenade.

The potential of Sue Bierman Park and the rest of the public open space at the foot of Market Street add to this richness. Given that the southern part of the study area is regarded as deficient in public active open space, a portion of Sue Bierman Park bounded by Drumm, Washington, Davis and Clay streets offers an excellent opportunity for new public active recreation facilities. Further, the Embarcadero Open Space planning effort, while focused on the design and reprogramming of the larger network of open spaces centered on Market Street and The Embarcadero, will provide a forum for a more detailed discussion of how these exceedingly important civic spaces can gain new significance.

With these thoughts as background, the Department concludes that this section of the waterfront is not in need of significant new open space. The Embarcadero Waterfront is not an appropriate location for space-intensive public recreation facilities, such as formal ball fields and the like. The deficiency in active open space can be addressed on some portion of Sue Bierman Park between Davis and Drumm streets.

Private recreation facilities such as the Golden Gateway Tennis and Swim Club may complement public recreation facilities for certain segments of the population, but they do not fully replace the need for public recreation facilities. The Golden Gateway Tennis and Swim Club is used both by immediate residents such as those of the Golden Gateway Apartments as well as by the general public. It is an important resource for these residents. Should its loss be threatened by new development that would displace it, those portions of the facility that now serve the immediate residents should be provided as part of any new development, and any lag time between its removal and replacement should be kept to a minimum if at all. Whether such a replacement facility serves a broader public beyond the immediate neighborhood, however, is not relevant to the current discussion.

Ensuring the High Quality Design of Streets along the Waterfront

Streets that have special civic importance because of their location and/or width play a unique role in the city, merit the highest design standards and should offer a gracious public realm for pedestrians.

The Embarcadero plays, as does Market Street, Van Ness Avenue and Columbus Avenue, a special role in defining the image of San Francisco. Its overall width, the prominent role of transit, the heightened level of design, and the Embarcadero Promenade all express the street's importance as a transportation route and as a place for people to visit and spend time.

There are a number of challenges, however, with the current design that should be addressed. The two most important are to dramatically improve the quality, comfort and safety of the pedestrian crossings so that pedestrians can more easily move from one side to the other, and to develop the western sidewalk into a promenade of comparable quality and prominence to the eastern. This includes providing the highest quality of public amenities, well beyond what is typical in other areas of the city.

Preliminary Recommendation

The west side of The Embarcadero should have a graciousness that equals but does not duplicate the Embarcadero Promenade. It should be softer and greener – with street trees and plantings – to contrast with the harder eastern edge, where such trees and plantings are less appropriate. There should be a wide sidewalk with generous space for landscaping and public amenities; there should be places for pedestrians to stop, relax and enjoy the unique environment; there should be attractive pedestrian lighting that provides a well-lit and safe environment for people to walk in the evenings and at night; and there should be narrow, safe and comfortable intersections that prioritize pedestrian needs over vehicular at most crossings.

Building with a Civic Vision along The Embarcadero

Development along The Embarcadero Waterfront must match the street's civic importance in quality of design, choice of materials, building orientation and active ground floors.

The quality of architecture and the civic prominence of a street are intertwined, with architecturally noteworthy buildings contributing to the street's memorability and overall impact on residents and visitors alike.

Historic buildings and historic districts provide a public history of an area's evolution and must be respected. New development is obligated to continue the narrative through architecture that is both sensitive to context and honest to contemporary culture, building techniques and materials. In this way, future generations can see how San Francisco has evolved through different periods and differing economic and social conditions, and thereby reach a deeper understanding of how cities in general change over time.

Buildings oriented to the street strengthen the pedestrian environment and sense of place, while those sited with indifference towards the street weaken it. Further, active ground floors along any street that plays a central role in the larger pedestrian network, including but not limited to The Embarcadero, provide a more attractive and convivial space for people to walk.

Finally, The Embarcadero's substantial width requires a continuous, or near-continuous, built edge to bring definition to its space. Buildings need to be of sufficient height to prevent

pedestrians from feeling lost or exposed while walking along it. More specifically, parcels south of Broadway, given the immediate context of high-rise towers and the proximity to major transit infrastructure and the downtown, should be taller than those north of Broadway.

Preliminary Recommendation
New development in the Northeast Embarcadero Waterfront must be held to the City's highest design expectations in view of The Embarcadero's prominence as a grand civic street.

Based on its analysis of the proper scale and enclosure of The Embarcadero and of proper relationships to surrounding areas and key public views of Telegraph Hill and Coit Tower from The Embarcadero, the Planning Department recommends that certain currently allowed heights in the study area be reduced. The area south of Broadway to Washington Street is now zoned to allow heights of 84 feet. The Department recommends that development fronting The Embarcadero between Washington and Jackson Streets be limited to a height of 65 feet. For development fronting The Embarcadero between Jackson and Pacific Streets the Department recommends that heights be limited to 35 feet to facilitate a key view of Coit Tower and portions of Telegraph Hill from The Embarcadero Promenade. To protect a key view of Coit Tower from the north end of the Ferry Building, the Department recommends that a limited view corridor be considered to further sculpt development fronting The Embarcadero to retain that key view. North of Broadway, fronting parcels were recently zoned for 40' and no change is now recommended to those height limits.

For the Drumm Street frontage of the parcel bounded by The Embarcadero, Washington, Drumm and Jackson streets, the Planning Department recommends a street wall height of 45 feet to reflect the street's width and respect the character of the Golden Gateway development across the street. There should be a horizontal setback of at least 20 feet above the fourth story, above which the building should be permitted to rise to 84 feet.

Designing in the Context of Adjacent Neighborhoods

New Development should respect the scale and character of the surrounding areas. This includes the special nature of the historic districts in and around the Northeast Waterfront.

The Northeast Embarcadero Historic District, the Telegraph Hill Historic District, the Jackson Square Historic District and the Embarcadero Historic District all provide an important context for new development in the larger area. Their use of durable materials, large floor plates, high floor-to-ceiling heights, and large windows spaced rhythmically along the façade should contribute to the design of new buildings in a manner that remains faithful to contemporary architecture and materials.

By contrast, the Golden Gateway project, with its 215 foot towers, elevated public open spaces and podium parking garages remains a defining feature in the Northeast Waterfront, although not always a positive one. The austere ground-floor frontages severely undermine the quality and character of the pedestrian environment and new development should instead provide active and transparent ground-floors that enliven the adjacent sidewalks.

Preliminary Recommendation
New development within the Northeast Embarcadero Historic District must be consistent with the design guidelines established by the Secretary of the Interior Standards. New development

outside any of the historic districts should recognize and respect the precedent set by the districts, but remain faithful to the aspirations of contemporary architecture.

As noted above, many of the public streets and rights-of-way in the study area serving the Golden Gateway project are lined with at-grade parking garages and elevated public open spaces. These design decisions, made several decades ago, severely undermine the quality and character of the pedestrian environment, offering austere ground-floor frontages, which is especially concerning along streets identified in the study as potential neighborhood connectors (Broadway, Clay, Washington). At least on those streets identified as neighborhood connectors, the City should consider a program to correct this condition over time, perhaps in partnership with adjacent property owners. Such an effort might include the use of a portion of the public right-of-way to create ground-floor activities that enliven the street and vastly improve them as pedestrian-friendly connectors to nearby neighborhoods.

PORT OF SAN FRANCISCO

MEMORANDUM

October 20, 2009

TO: MEMBERS, PORT COMMISSION
Hon. Rodney Fong, President
Hon. Stephanie Shakofsky, Vice President
Hon. Kimberly Brandon
Hon. Michael Hardeman
Hon. Ann Lazarus

FROM: Monique Moyer
Executive Director

SUBJECT: Request approval and partial fee and security deposit waiver for License to Use Property No. 14527 between the Port of San Francisco and the Pilara Family Foundation, a Nevada Non-Profit Corporation.

DIRECTOR'S RECOMMENDATION: Approve Attached Resolution

BACKGROUND

Pier 24 Annex was built in 1935-36 and is located south of the Ferry Building adjacent to and just north of Pier 26. The Annex building is approximately 27,311 square feet of pile supported enclosed pier space. The site fronts on The Embarcadero and is within the Northern Waterfront Historic District.

In 2002, the Port Engineering Department determined that the Annex had extensive deterioration to its major structural elements making it uninhabitable and placed a Limited Access Condition or Yellow Tag status on the entire building.

Since May 2007, the Pilara Family Foundation (the "Tenant") has occupied the Annex pursuant to Port Lease No.L-14414, Parcel A. The Lease was approved by the Port Commission on August 1, 2007 and provided for a term of 7½ years. The Lease required that the Tenant make significant tenant improvements including specific core and shell upgrades.

The Lease was subsequently amended in June 2009 by a Second Amendment approved by the Port Commission in February 2009 and the Board of Supervisors in March 2009. The Second Amendment provided for a term extension for a total Lease term of ten (10) years and therefore required Board of Supervisors' approval. The Second Amendment also allowed for tenant rent credits for core and shell improvements up to $3 million.

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The Tenant has now completed rehabilitation of the Pier 24 Annex. The project costs exceeded $12 million of which $7.7 million went to core and shell improvements. All of the improvements are compliant with the Secretary of the Interior Standards for the Rehabilitation of Historic Buildings. The Tenant is in good standing.

As part of the project approval process, the Tenant was required by the San Francisco Bay Conservation and Development Commission ("BCDC") to provide public access space (see attached map).

In order to facilitate the BCDC Permit (No. M07-21) requirements, the Port and the Tenant have drafted License No. 14527, with a month-to-month term. The License provides for approximately 947 square feet (Parcel C) of the Pier 24/26 rail bed space to be used for public access and for the installation of certain improvements. The improvements include a new gate, a waterfront history wall to display historic waterfront photos owned by the Tenant, and access for the public to view the bay. The Tenant will maintain these improvements and indemnify the Port against any and all loss or liability.

Due to the advanced deterioration of the Pier 24/26 rail bed area, this portion of the project costs approximately $750,000 to create 947 square feet of public access space that also provides access to the Annex building.

The License also provides for approximately 313 square feet (Parcel B) of area to provide for an ADA compliant access ramp and to provide a secondary exit required under the Port's Building Code. The Tenant has agreed to pay rent in line with the Fiscal Year 2009-10 Port Commission approved Rental Rates for the ramp area. The monthly fee is $68.86. The Tenant has also agreed to pay rent retroactively from completion date of Parcel B, October 14, 2008 to the commencement date of the License.

The Tenant has requested and Port staff agrees that the monthly rental fee and security deposit for the public access area Parcel C (rent amount is $208.34 per month and security deposit amount is $416.68), should be waived based on the following criteria: (i) there are no other uses for the space during the term of the license that would generate rent to the Port and no other uses would be displaced; (ii) the Port will not be expending any resources or revenues to support this use; and (iii) there is a direct benefit to the Port e.g. the use will enliven the waterfront by attracting people to the waterfront to view the photos and enjoy the public access.

RECOMMENDATIONS

Port staff recommends that the Port Commission adopt the attached Resolution approving the License to Use Property between the Port of San Francisco and the Pilara Family Foundation, a Nevada Non-Profit Corporation with a partial fee waiver of $208.34 per month and security deposit waiver of $416.68.

Prepared by: Jeffrey A. Bauer
Senior Commercial Leasing Manager

For: Susan Reynolds
Deputy Director of Real Estate

PORT COMMISSION
CITY & COUNTY OF SAN FRANCISCO
RESOLUTION NO. 09-67

WHEREAS, Charter Sections 4.114 and 63.581 of the Charter of the City and County of San Francisco empowers the Port Commission with the power and authority and duty to use, conduct, operate, maintain, manage, regulate and control the Port area(s) of the City and County of San Francisco; and

WHEREAS, The Pilara Family Foundation, a Nevada Non-Profit Corporation (the "Tenant") has been a Port tenant in good standing at Pier 24 Annex since May 2007 under Port Lease No. 14527; and

WHEREAS, The Lease requires the Tenant to make significant improvements to the Pier 24 Annex building and as a condition of the approval process, the San Francisco Bay Conservation and Development Commission ("BCDC") requires that the Tenant provide public access; and

WHEREAS, The Port and the Tenant have drafted license No. 14527 with a partial fee and security deposit waiver for approximately 947 square feet of space for public access improvements known as Parcel C to comply with the conditions of the BCDC Permit No. MO7-21; and

WHEREAS, The Tenant has agreed to pay for the remaining square footage retroactively and comply with all License provisions; and

WHEREAS, Port staff agrees that there should be a partial fee and security deposit waiver for the approximately 947 square feet of public access because there are: (i) no other uses for the space during the term of the license that would generate rent to the Port and no other uses would be displaced; (ii) the Port will not be expending any resources or revenues to support this use; and (iii) there is a direct benefit to the Port, e.g. the use will enliven the waterfront by attracting people to the waterfront to view the photos and enjoy the public access; and now, therefore, be it

RESOLVED, that the Port Commission hereby approves the terms and conditions set forth in Agenda Item 9A for the October 27, 2009 Port Commission meeting and authorizes the Executive Director to execute License to Use Property with a partial fee waiver of $208.34 per month and security deposit waiver in the amount of $416.68 for Parcel C with the San Francisco Pilara Family Foundation, a Nevada Non-Profit Corporation, License No. 14527 with a partial fee and security deposit waiver in such final form as is reviewed by the City Attorney.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of October 27, 2009.

_____
Secretary

SAN FRANCISCO PORT COMMISSION

OCTOBER 27, 2009
MINUTES OF THE MEETING

GOVERNMENT
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HON. ANN LAZARUS

MONIQUE MOYER, EXECUTIVE DIRECTOR
AMY QUESADA, COMMISSION SECRETARY

CITY & COUNTY OF SAN FRANCISCO
PORT COMMISSION

MINUTES OF THE MEETING
OCTOBER 27, 2009

1. CALL TO ORDER / ROLL CALL

Commission President Rodney Fong called the meeting to order at 2:34 p.m. The following Commissioners were present: Kimberly Brandon, Michael Hardeman and Ann Lazarus. Commissioner Stephanie Shakofsky arrived at 3:15 p.m.

2. APPROVAL OF MINUTES - October 13, 2009

ACTION: Commissioner Lazarus moved approval; Commissioner Brandon seconded the motion. All of the Commissioners were in favor; the minutes of the October 13, 2009 were adopted.

3. PUBLIC COMMENT ON EXECUTIVE SESSION

4. EXECUTIVE SESSION

A. Vote on whether to hold closed session to confer with Legal Counsel and Real Property Negotiator.

ACTION: Commissioner Hardeman moved approval; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor.

At 2:33 p.m., the Port Commission withdrew to executive session to discuss the following:

(1) CONFERENCE WITH LEGAL COUNSEL REGARDING ANTICIPATED LITIGATION MATTER (DISCUSSION & ACTION ITEM)

a. Discuss anticipated litigation matter pursuant to Sections 54956(b)(1) and 54956(c) of the California Government Code and Section 67.10(d) of the San Francisco Administrative Code. (Discussion and Action Item)

Number of potential cases: 1 as Defendant; 1 as Plaintiff

5. RECONVENE IN OPEN SESSION

At 3:20 p.m., the Commission withdrew from executive session and reconvened in open session.

ACTION: Commissioner Shakofsky made a motion to adjourn executive session and reconvene in open session; Commissioner Hardeman seconded the motion. All of the Commissioners were in favor.

ACTION: Commissioner Hardeman made a motion to not disclose any information discussed in executive session; Commissioner Shakofsky seconded the motion. All of the Commissioners were in favor.

6. ANNOUNCEMENTS

A. Announcement of Prohibition of Sound Producing Devices During the Meeting

Please be advised that the ringing of and use of cell phones, pagers, and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic device.

B. Announcement of Time Allotment For Public Comments

Please be advised that a member of the public has up to three minutes to make pertinent public comments on each agenda item unless the Port Commission adopts a shorter period on any item.

7. EXECUTIVE

A. Executive Director's Report: Brad Benson, Acting Executive Director, indicated that Ms. Moyer is on vacation today attending the 6th Annual California Women's Conference in Long Beach with Fire Chief Hayes-White. He reported the following:

- **Pier 30/32 Load Limits:** There are new load limits that have been imposed on Pier 30/32, which will impact port operations.

  Ed Byrne, Chief Harbor Engineer, indicated that he, Joe Roger, the Port's facility assessment team lead engineer, and Joyce Chan from the Port's Real Estate division will talk about Piers 30/32 and discuss the signage around the Embarcadero indicating that the loads are limited and we don't want any trucks or buses on that facility. A little more than a month ago in response to a call from maintenance, our facility assessment team inspected a large hole in the Pier 30/32 deck. One of our maintenance employees reported observing a heavily loaded truck using the pier and causing a failure of the pier deck and immediately called in for some steel plating to be put over the hole. The deck failure is classified as a punching shear failure, which is a typical term for a concrete slab failure wherein a heavy, concentrated load -- a load that's focused in one area, is punching

a hole through the thin slab section. It wasn't a beam section. Subsequent review of the pier deck design and accounting for the current condition of the 100-year-old pier structure revealed that the Pier 30/32 cannot support heavy vehicle loads any longer, as demonstrated by this failure. To account for this weakness, no heavy loads or buses will be permitted on the pier going forward. Port staff, including real estate, maritime, planning, finance, and engineering are looking at ways and alternatives and possible funding sources to keep the facility in use and to develop plans for the future of this facility. In the meantime, restricting truck and bus access to the pier is going to impact operations, special events, and cruise ships calling to that pier. On the bright side, public assembly and current parking of light trucks and vehicles will be permitted and will continue.

Joe Roger, structural engineer for the Port, indicated that the first slide on the left-hand side shows a picture from a Google map of Pier 30/32. The picture on the right gives some more information on the north side. The up side of the picture shows Pier 30, the connecting pier in the center and on the south part is Pier 32. Pier 30 and Pier 32 were constructed around 1912. The connecting pier was constructed in 1950. This presentation will briefly cover recent structural findings, recent structural load limitations, proposed signage installation, and use impacts. The hole that Ed mentioned is a classic punching shear failure. A large tractor-trailer tire went right through the deck. This pier does not have top rebar in the slab. Maintenance covered the hole with a steel plate. The underside of the deck shows the punching shear failure. There's only bottom steel reinforcing. There is no top steel rebar. He showed a typical picture of the Pier 32 sub-structure and a picture of the Pier 30 marginal wharf. It's a different construction. It has steel beams. He showed another slide showing the same picture of the Pier 30/32 with the connecting pier. This slide also shows how Port Engineering has limited the loading in specific areas. Piers 30 and 32 are limited to a 2000-pound wheel load. The connecting pier is much stronger. That still has a capacity to carry a large wheel load and a heavy live load. The problem is getting from the street to the connecting pier. The area between the Embarcadero and the connecting pier can only carry 2000-pound wheel load. Temporarily we have two electronic signs that are functioning right now on the Embarcadero in front of 30/32. We are proposing an additional eight signs. The signage specifically says a 2000-pound maximum wheel load. We're proposing a front entry portal height restriction frame, which is typically seen on a parking garage structure. That will limit the height of the trucks that can get into the 30/32 pier.

Joyce Chan, property manager in the Real Estate Department, indicated that Pier 30/32 is utilized as a special events venue and a parking lot for tour buses, trucks, daily commuters, and ballgames. We have provided a copy of the assessment report to all of our event organizers: Martha Cohen with the mayor's office, the Giants Imperial Parking, and SFMTA.

To date, we've received two special events cancellation. Vans Warp tour and AVP beach volleyball. We are referring these cancelled events to Seawall Lot 337, Giants Parking Lot A. Imperial Parking has relocated the tour bus and truck parking usage to Seawall Lot 337. However, that is just a short-term solution due to the Giants operation. Therefore, SFMTA is currently conducting a citywide search for an alternate site for tour bus and truck parking. The annual potential lost revenue from special events and tour bus and truck parking is estimated at $124,000.

Commissioner Shakofsky asked about the lost annual revenue of $124,000 and whether those two cancelled events will be rebooked at SWL 337.

Joyce Chan confirmed that the lost annual revenue is $124,000 and added that she's unsure if the two events will be rebooked because the beach volleyball wanted the view of the Bay which SWL 337 doesn't have.

Brad Benson indicated that Port Engineering staff is going to work with the Real Estate, Maritime, and Planning and Development Divisions to look at these load limitations. Obviously the pier is not useful if trucks cannot access it. It's certainly not useful to its full potential. Port staff will be coming back to the Commission with a variety of options for how to regain that access.

- **Universal Recycling and Composting Ordinance:** In compliance with the city's universal recycling and composting ordinance, Port staff has implemented composting and improved recycling at Pier 1 offices. As you walk around the facility and the kitchen areas, new composting bins and recycling bins are in place. He thanked the Port's recycling czar, Rich Berman, for managing the program implementation. We're still working with the Pier 50 maintenance staff to set up the program in all the maintenance locations. Port staff is also coordinating with our tenants to make sure that they're in compliance with the law. It is a mandatory composting and recycling law the applies to commercial ventures citywide. We've had some very notable successes at 401 Terry Francois Boulevard and also at Roundhouse 2. We estimate that we've saved $20,000 annually through implementation of the program. We look forward to spreading that success along the waterfront.

- **Trucking Law:** There is a new trucking law that's going to impact Port tenants, particularly in the southern waterfront. The California Air Resources Board, otherwise known as CARB, is phasing in its new port truck rule. This applies to trucks that are servicing maritime facilities, basically transporting cargo from oceangoing vessels and it requires extra clean trucks with the latest emissions technology. At the Port of San Francisco, the rule will apply at Pier 94, Hanson Aggregates. A lot of folks are trucking aggregates out of that site as well as cargo from Pier 80. The rule requires terminal operators to check each truck entering the facility to

make sure that it's registered and to cross check CARB's database of compliant trucks. Then the terminal operators will report to the Port, which in turn will report to CARB on a quarterly basis. The reporting requirements began in September, but we don't expect CARB to take action regarding non-compliant trucks until the beginning of the year. The regulation is causing concern on a statewide basis and locally among independent owner/operators because there's a significant cost to upgrade trucks to be compliant. It can range from $12,000 to $20,000 or it could even entail truck replacement, which is a substantially bigger investment. We've notified using the MCAC and some of our port tenants about the requirement, also as to the availability previously of Bay Area Air Quality Management District grants to help operators. Those grants are no longer available but port staff is working with MCAC and internally to develop some potential funding options to help folks meet the requirements.

- **Sea Lions at Hyde Street Harbor:** Port staff have been reporting and updating the Commission about the sea lion problem at Hyde Street Harbor. We're happy to report today that the controversy regarding sea lions is diminishing a little bit thanks to the great work of Port Maritime staff and Maintenance staff and also some changes in the season. Last week Port maintenance installed a two-foot high barricade along the eastern end tie at Hyde Street Harbor to deter sea lions from roosting at that location. Recent observation indicates about 10 sea lions at that location compared to the height of a maximum of about 100 sea lions that were observed previously. We continue to monitor the situation and also provide weekly updates to concerned parties including the Dolphin Club and the South End Rowing Club and the Marine Mammal Center.

- **Update on the October 14, 2009 Community Meeting regarding Darling International's Proposed Biodiesel Project on Amador Street:** Last week Port staff organized a community meeting regarding the Darling biodiesel proposal at Pier 92. As the Commission may recall, the California Environmental Quality Act clearance for the project was rescinded early in the year. Port staff committed, along with the Planning Department and other agencies, to conduct more community outreach about the Darling Biodiesel proposal. Last week's meeting was the second meeting with community representatives, including representatives from our southern waterfront advisory committee. Port staff was represented by again Rich Berman and also Dave Beaupre from Planning and Development staff who managed the meeting. Other city agencies and federal agencies were represented as well, including the Mayor Newsom's office, the Fire Marshal, the Department of the Environment, the Department of Public Health, the Public Utilities Commission, the Bay Area Air Quality Management District, and EPA's Office of Environmental Justice. We had quite a large official representation at the meeting. There were some serious topics discussed at the meeting. We went over Darling's operations plan, its fire safety and building code compliance, and

follow-up questions that were raised at the prior community meeting. What we've been hearing from residents is a concern about the emissions from the existing facility. Do those emissions cause a health risk that people should be concerned about? We attempted to answer those questions with the assistance of a Port consultant who specializes in odor control. Darling also brought a toxicologist to the meeting to address the issue. We were grateful that Darling agreed to do some new emissions testing of the facility and air dispersion analysis that the Department of Public Health will then take to perform a health risk assessment. We expect to go back to the community with the results of that health risk assessment.

- **Urban Land Institute National Fall Meeting - November 4-6, 2009 at Moscone Center:** We're looking forward to the Urban Land Institute national fall meeting on November 4-6, 2009. The Port and the City will be actively participating in this meeting. The meeting will be held at Moscone Center. We expect over 5000 attendees. The Port is highlighting the cruise terminal at Pier 27 and the Pier 70 project as part of an exhibit booth with other major city projects. A national panel of ULI members will be discussing the draft Pier 70 master plan and advising on how best to realize its vision in the economy that we're experiencing today. Port staff will be including the insights from that discussion in its upcoming recommendations regarding next steps on the Pier 70 project. Concurrent with that ULI panel, SPUR is going to be hosting a display of the Pier 70 master plan on the ground floor of the Urban Center.

- **San Francisco Planning Department and SPUR's *"Planning on the Edge ... of the Continent"* - November 4, 2009:** The San Francisco Planning Department and SPUR are hosting Planning on the Edge of the Continent on November 4, 2009. This is a conversation with the planning directors of six of North America's most innovative cities, including San Diego; Portland; New York; San Francisco, represented by John Rahaim; Seattle, Washington; and Vancouver, B.C. The event will take place on Wednesday, November 4, 2009 from 6:00 to 8:00 p.m. This is a free event and it will take place in the North Light Court of City Hall. Port staff will be in attendance as well.

- **State of the Media Conference – November 6, 2009 at Pier 1:** The State of the Media conference will be held on November 6, 2009 at Pier 1. This has been put together by Jill Rodby, Principal of Rx2 Marketing Communications and former Port of San Francisco employee.
  The conference is focused on the maritime and logistics industry. It will be held from 8:00 a.m. to 4:30 p.m. in the Bayside Conference Room at Pier 1. The Port is a sponsor of the conference. This is an opportunity to network with editors and publishers of the leading maritime and logistics industry media, learn how to implement social media into marketing programs, and get media coverage for your companies or organization.

- **San Francisco Beautiful 2009 Beautification Award Winner for the Port of San Francisco and San Francisco Waterfront Partners for the Piers 1½-3-5 Project :** In today's *Chronicle* that San Francisco Beautiful announced its 2009 Beautification Awards. Again, Piers 1 1/2, 3, and 5 was a winner. The awards dinner is taking place on Thursday, October 29, at the Westin St. Francis Hotel in San Francisco. This year's theme, Saving Our City: Beauty Has a Place, focuses on new beautification projects that have happened due to creative thinking and collective efforts, even in the face of both financial and natural resource shortages.

- **Bauer's Limousine and Transportation Service:** Congratulations to Bauer's Limousine and Transportation Service, a Port tenant at Pier 27, for receiving the San Francisco Chamber of Commerce Excellence in Business Awards in the Emerging Growth award category. The ceremony was held on Wednesday, October 21, 2009 at the San Francisco Palace Hotel.

- **SPUR Silver Luncheon:** The SPUR Silver Luncheon is taking place on Monday, November 2, 2009, at 12:00 noon at Moscone Center. This year's honorees are Philip P. Choy, an architect and an expert in Chinese American history; Leroy King, a Redevelopment Agency Commissioner and longshoreman union activist; in memory of Brian O'Neill, an advocate for the open space movement and the National Park Service; Paul Sack, a real estate developer and philanthropist; and Dr. Isabel Wade, a founder of San Francisco's neighborhood parks movement. The SPUR Urban Leadership Award will be awarded to Jim Chappell, former SPUR president, who set the vision for the urban center. Featured speakers will include Mayor Gavin Newsom and Dr. Martin Brotman, president of Sutter West Bay Hospitals.

8. PLANNING & DEVELOPMENT

A. Informational Presentation by the Department of City Planning regarding the Northeast Embarcadero Study.

Diane Oshima, Port's Planning and Development Division, indicated that she's going to give the Commission a briefing on the North Embarcadero study as a preface to a briefing that the City Planning Director, John Rahaim, will provide. Last February, at the Commission's direction, the Port and the Planning Department worked together to have the Planning Department set up a planning process focusing on the Port seawall lots and the 8 Washington site between Washington Street and Northpoint Street on the west side of the Embarcadero. The planning process has been very helpful and fruitful in terms of attracting a large constituency and high level of public participation to gather input on design recommendations that would come through that process. We are very grateful at Port staff level for all of the work that the Planning Department and Director Rahaim has put into this effort.

In particular, the last workshop that was held on September 30 was very well run. It was incredible in terms of the number of people who showed up for a pre-workshop walking tour. There was a good dialogue and interaction on the various issues at play as well as the hands-on workshop itself. There were over 150 people jammed into the Port Commission hearing room. We do appreciate all of that work and particularly the recommendations that the Planning Department produced, the planning principles and recommendations that are available now for public review and are attached in the staff report. We find that a lot of those principles and the types of issues resonated well with the various issues that the Port deals with on its waterfront planning context. A number of those principles reaffirm those in the Waterfront Land Use Plan. It's giving us good guidance in terms of how to produce projects that can improve the waterfront. In particular, there were some key principles she'd like to share with the Commission as Port staff's assessment and reaction from the September 30, 2009 workshop, as it is reaffirmed through this process, about the importance from a citywide perspective of the Embarcadero and how the urban design and framing of this major boulevard arterial is a framing not just for the Port and the waterfront but for the city at large.

The idea of strong street walls, pedestrian activation that makes the west side of the Embarcadero as active and as inviting as the east side is something that was we welcomed to hear that recommendation coming out of the work. In terms of the open space network, it was good to hear the affirmation of all of the work that the Port Commission is doing to improve the waterside and the parks that are concentrated primarily on the east side of the Embarcadero and the promenade standards that we've been working on and to have it complemented by pocket parks and plazas that are incorporated into the development of those seawall lots rather than creating more large park sites on the west side of the Embarcadero. The Planning Department's recognition of Pier 27 in the northeast wharf major plaza which the Port is trying to invest its efforts in as the next big major public open space speaks to that as well.

The focus on the public realm aspects on the west side of the Embarcadero, to really start calling out what are the things that create successful pedestrian realm to try and complement the work that the Port has been doing on the east side of the Embarcadero with the Embarcadero design standards and to have something that is fitting for the west side of the Embarcadero as well, that also reaches back into the rest of the city. We applaud and support all of those principles. We're looking forward to seeing what the next steps are for this planning process, to hear from the Planning Department what their assessment is of the comments that have been gathered together, particularly from the September workshop. At the conclusion of this planning process, the development project on Seawall Lot 351 is an active part of the process in terms of having the portion of this process at the southern end of the study area inform what that project should be designed to associate in terms of embracing the urban design objectives for the area. We see that as an

important effort. Once the study is done, the developer will be working with the outcome of that process to incorporate revisions into their design.

Ms. Oshima thanked the Planning Department, in particular John Rahaim, Neil Hrushowy, Kate McGee and David Allenbaugh. We look forward to continuing this process to its conclusion.

John Rahaim, City Planning Director, indicated that he would like to spend a few minutes going over their recommendations, using a condensed version of the presentation that they used in the September 30, 2009 meeting, which Commissioner Shakofsky attended and 150 other people.

He acknowledged Neil Hrushowy and Kate McGee, the team working on this project. Kate is managing this process and Neil is the primary urban designer. David Allenbaugh, who couldn't be here today, is managing their work directly.

As the Commission is aware, there have been four community workshops on this project, three happened during the summer and earlier in the year in May and June and the last of which happened on September 30, 2009. Planning staff also attended the Northeast Waterfront Advisory Group meeting a couple of months ago where they first presented their initial recommendations. They are essentially in the last phase of their process. They hope to receive public comments on their current recommendations in anticipation of a final public meeting in December at which point they'll prepare the final report to the Port Commission and the community and to the Planning Commission.

They are basing their recommendations on the eight principles that they developed for how we should view the work along the waterfront. These principles form a very solid foundation for whatever should happen on all those sites and in the public environment in the future.

The first principle has to do with the approach of building along the waterfront. The community, the supervisor and Port staff asked them to look at other cities and to do some comparison. They looked at cities in Europe such as Copenhagen and Hamburg where both the historic cities and the newer parts of those cities have buildings that are, for the most part, built right to the edge of the water with a generous public promenade between the water and those buildings.

They can be in different locations, in different cities in Europe. In Copenhagen, six story buildings are built along a public promenade, both in newer development and older development. There's a strong edge creating a room or creating a edge to the water along these cities. This can be found both in European cities and in North American cities. Chicago has a long history of building, in fact some of their tallest buildings, along the water, although in their case it's separated from the park by Lake Shore Drive which has become essentially a highway along Lake Michigan. There is a very

substantial public beach and park along Lake Michigan. Millennium Park, which is one of Chicago's great new public spaces, is surrounded by very substantial buildings in that location. Same is true in Canadian cities of Toronto and Vancouver where there are very substantial development heights and densities with very, very substantial public open space along the edge of the water.

Vancouver has kind of developed the model of the townhouse base, surrounded by towers and in other locations as well where Vancouver in particular has embraced very substantial densities on the edge of their waterfront.

So when they looked at San Francisco's situation, there's a kind of combination of the pier buildings, which form one edge to the water in a substantial public space and a number of gaps on the eastern side of the Embarcadero. Their recommendation is there needs to be a strong edge. There needs to be a developed edge on the east side of the Embarcadero. The Embarcadero needs to have an edge which activates that edge, which defines that edge. It needs to be as continuous as possible on the eastern edge of the Embarcadero.

Secondly, their principle is an important principle that they use in all of their work is respecting the topography of the city. San Francisco has a long tradition of accentuating the hills by allowing for some taller buildings on hilltops and to further exemplify one of the city's great assets. That is done in a number of ways. Respecting that topography. Accentuating that topography. Their recommendation, based on this principle, is to maintain views that are views to significant places that exemplify that topography, such as Telegraph Hill and Coit Tower. The dotted line on the drawing shows a view from the northern edge of the Ferry Building to Telegraph Hill and the tower. That's a line that has influenced some of their recommendations that will be seen late on. It's both views down the streets, to the water, accentuating the topography, and views of the important hilltops and features of the city's topography.

The third principle has to do with the city's pattern of street grid and how that grid is continued or not to the waterfront. They think it's important that these types of views down our major streets, down all of our public streets, be maintained and be opened to public access. It's one of the city's great assets to be able to look down the streets, particularly with the topography, and to be able to see these extraordinary views. Their recommendation is to create and emphasize those connections, to open up those views wherever possible. This affects a couple of the sites along this part of the Embarcadero where those views are currently closed off and there is no public access. It's important that the street grid be opened up to the waterfront as it is an important element of this process.

The fourth principle is to recognize that this part of the waterfront or the entire waterfront plays a role in the entire city, if not the entire region. This particular slide in Frankfurt is just another example of that where the waterfront is really about a regional and citywide significance and really recognizes that in the way it's developed and its accessibility and it's sort of grand nature of what is there.

This happens in cities all over where there is clearly, as in our case, an important viable lively neighborhood on the edge of the waterfront, but the waterfront itself becomes one for everybody. They are kind of working at the seam of what is a good, strong urban neighborhood and an important regional amenity.

Their recommendation is to make sure that that seam is recognized, that we are dealing not only with the particular neighborhood that we are in, which of course is very important, but dealing with the citywide issues and access issues and making sure that this portion of the waterfront on both sides of the Embarcadero is an important asset for the city.

The fifth principle has to do with public open space. As you know, there were several members of the community who felt strongly that some of the sites along the Embarcadero should become more public open space along there. They looked very carefully at that. Looked at the amount of open space in this neighborhood compared to other parts of the city. What we found is a couple of things. One is that there is a fairly large amount of open space in this part of the city already on the east side of the Embarcadero. Clearly, the waterfront and the promenade on the west side of the Embarcadero is an important part of that open space system. Where the system perhaps is lacking is in the pedestrian access on the east side of the street. Clearly the sidewalk conditions, the access to the west is not what it could be. It's not as generous or attractive as the sidewalk and promenade that you have all made happen along the piers. Their recommendation is to provide additional open space along with development in the form of small plazas, in the form of small pocket parks, and make sure that we're improving the pedestrian conditions on the sidewalks both along the Embarcadero and back into the neighborhoods.

There is obviously a very big issue that we've heard about many, many times with this process about the existing recreational facility at 8 Washington. It's important to address that. Their position on this and their recommendation is that type of facility be incorporated in the development in this area, but it's important that it be a public facility as well so that it isn't just a private facility located on an important public waterfront. They believe there are opportunities in this part of the city, for example in Sue Bierman Park, to accommodate those facilities in a public manner and not just a private manner. They fully recognize and acknowledge that there are people who strongly disagree with that. The Planning Department has had a lot of discussion on that issue. They want to be clear that we're acknowledging that

concern. They believe that it's important that the edge of the Embarcadero be primarily for public use and that edge be developed with a strong urban character and that those facilities be provided wherever possible in a more public way.

The sixth principle has to do with the design of our streets along the waterfront. The character of the streets are very important. We often call the streets in the open space system "the public realm." His view on the public realm is that every city should identify its most important streets and really go for it and figure out how those streets should be developed.

Market Street obviously is the city's most important street in many ways, but clearly the Embarcadero has to be and is in many ways. The west side of the street does have the character of the east side at this point. In fact, there are some locations where the sidewalk is pitched around it just 3 or 4 feet. In his view, that is unacceptable for a great waterfront city to have that condition.

They are making very strong recommendations about improving the quality of the streets in that area. It isn't just the Embarcadero itself, which of course really does need to have special treatment, but it's the side streets and particularly the connections to the west, to the neighborhoods to the west, to Chinatown and Telegraph Hill.

They made specific recommendations about what streets they should really concentrate on. One of the challenges we have in the blocks immediately east of the Golden Gateway development, for example, is that development was clearly built at a different era, when we understood less about how cities work and how streets are activated. While the streets themselves could use some improvements in terms of the width of the sidewalk and such, they're also lined with parking garages for two or three blocks. That's a real challenge because those are clearly parking facilities that are used that support those developments, but it makes it that much harder to activate those streets and create a strong connection between the waterfront and the neighborhoods to the west. It's really incumbent upon us over time to work with those property owners and see what can be done to start improving that condition and strengthening those connections. The actual architecture and the character of building and the quality of building along the Embarcadero is a very important issue.

The map outlines the sites that are available for development, as Diane said, all the way up to the Port's site, North Point. They looked at a number of conditions, particularly view. This is a very simple view looking at from the base of Coit Tower. In blue are the development sites in the southern part of the study area, 8 Washington to the center and the other sites to the left. Those sites are shown at 40 feet. The sites at 8 Washington are shown at 85 and 64 feet respectively. You can see what you would see of those buildings and what views would be blocked from the base of Coit Tower. They also looked in the other direction, back to Telegraph Hill, which in many ways, in

their estimation, this was the most important view to be considered because of what he said earlier about respecting the city's topography, looking at the major public view.

He showed a picture of the current condition from the north edge of the Ferry Building where you see Telegraph Hill and the Tower to the right behind the trees. It shows the building meeting current code at 85 feet from that location. Again, this is just an outline of the building. There's some concern that they were trying to suggest a blue glass building on the waterfront. That's not clearly what they're recommending. The point simply being this is an outline of what the zoning might allow on that site. This shows the same site at 65 feet and at 45 feet. In the back you see a building of 85 feet as well. This had a significant effect on the impact on their recommendation because they thought that their analysis was that point on the waterfront, the north side of the Ferry Building was an important public spot that should try to maintain a view to Coit Tower from that point.

They received some feedback on that in the public meeting with people saying, "Why that particular spot? Why is that spot important and more important than others?" Their preliminary recommendation is that we should suggest a form that would of course require high quality design but set heights to preserve those key views, particularly that aforementioned site and appropriately kind of frame the pedestrian realm.

The sites going from the north, they are currently suggesting that those sites in yellow, which are zoned for 40 feet, remain so. Although it would be important to have that discussion about any potential future changes. They are not recommending any changes there right now. At the Washington Street site, they are suggesting that the building steps down some from Drumm Street to the waterfront, from approximately 85 feet to 65 feet with a corner at 45 feet to reflect that view that he was talking about, the view from the north side of the Ferry Building to Coit Tower.

They are also recommending that the north side of Jackson Street, the triangle there, be developed to at least 35 feet again to reinforce that principle that there should be a strong urban and active edge to that side of the Embarcadero. They are proposing a step-down from 84 to 65 with a corner at 45. The northern portion of that site at 35 with the other sites to be maintained for now at 40 feet.

This is looking an aerial view and reflecting their eighth principle, which is making sure that we recognize that there are some very active, vital, solid neighborhoods at the edge of the site. The area to the left is the northeast waterfront historic district and to the right of course is the Golden Gateway Project. These neighborhoods really form the kind of neighborhood context for this. It's important to reflect that in the design of anything that happens anywhere along the stretch of the waterfront.

It has to do with the nature of the architecture, the character of the buildings, the materials and the scale. This is where he was talking earlier about the poor quality of the pedestrian environment going back from the waterfront into the neighborhoods. It is really incumbent upon us to think over time of how we can address these conditions because it is more than just the character of the street itself. It's the character of the surrounding development, which of course was built in a very different era. It will be a challenge to address that over time, but we should figure out a way to do that.

As Diane mentioned, on September 30, 2009, there was a community meeting in this room where they presented in more detail what he just presented to the Commission. There were small group discussions around a number of tables in this room. They've heard a variety of views, but he thinks their characterization is a fair wrap-up. They'll certainly capture this in more detail. There is clearly a range of opinion about whether anything should happen on the 8 Washington site at all. There are some folks who believe strongly that we should not have development there at all and that it simply should be left in its current state or that it should be park space.

There are others who believe we should build what we proposed and even more. He emphasized one strong recommendation that is sort of implicit in everything that he's talked about. They believe strongly that site should be developed. They believe it's important to have a building on that site that activates the edge of that site and that has activity that spills out into the street and really makes something of that part of the street.

Their recommendation is that site should be developed but there is a broad range of views on whether that site should be developed. They have heard a fair amount of agreement that there should be an edge there. How one defines that edge is another question. People do believe that edge should be improved and there's agreement about that.

There's agreement that public view corridors are important in general. There is very strong agreement about the importance of the Embarcadero as a great civic street, one of the city's grand boulevards and that all of their work there should reflect that. There's a strong agreement that there needs to be a strong 24-hour environment or a more active environment with a longer range of uses.

There clearly are different approaches to the issue of public trust. They've heard very different approaches from whether we should make this parkland, swap it for other land, whatever it might be. There is also a range of opinions around the role of private development, how private development should or should not help pay for some of those public improvement.

Many of the Golden Gateway residents are opposed to development of the site and particularly the changes to the club. He recognizes that and would like to continue to acknowledge that in their work. There's clearly a range of

opinions on the height. Obviously that's no surprise to any of us. He emphasized that they haven't heard just make it 40 feet like the other sites or make it 85 feet. They've heard a whole range of opinions on this. They've clearly documented that there is a range. It's fair to say that not even everyone in the neighborhood is in agreement on this. There is a very strong range of opinions on this height issue.

They expect to release the final report in early December, which they'll have another public meeting to go over the report. They are looking forward to hearing public comments over the coming few weeks. The final report should reflect some of those comments. It is important that they hear from all the segments of the community over the next six weeks or so to hear whether this is a viable approach, whether there are other ways of meeting the principles that were laid out.

He's anxious to hear about the development viability of their approach. He's anxious to hear from more members of the community about their approach. He expects that the final recommendations will be changed somewhat based on what they hear over the next six weeks. He's anxious to hear those comments so that they can make their final recommendations based on comments from the community.

They anticipate that by the end of the year or early next year, they would go to the Planning Commission with this report, and they're very interested in hearing their recommendations as well. The final products that they expect to produce are the public realm plan, the recommendations for the streets and open spaces, guidelines for development, and recommendations for future actions. What future actions should the Port and the city be looking at in this part of the city?

They're very pleased and challenged by this process. They appreciate the Port's confidence in them to move forward and to do this work. He's happy to continue this relationship and work with the Port Commission and staff over the coming months.

Ernestine Weiss indicated that the community are very upset with these recommendations because they are in direct opposition to what the Waterfront Land Use Plan says. There is absolutely no need for a condo on the waterfront. It's only about greed. The height, 65 feet is higher than the Embarcadero freeway at 55 feet. They're putting up a wall instead of what the Waterfront Land Use says is to open the land to the water. That's a direct opposition to what the Waterfront Land Use Plan says and they were all very active in creating that plan. The garage for 100 plus car spaces is way out of line with the cumulative parking coming down the pike at the Exploratorium and other sites. The loading dock at Drumm Street is totally unacceptable so close to 440 Davis Court and for obvious reasons. A 40-foot height is a must as it conforms to the other seawall lots nearby. How come you're doing parking on these lots, renewing the leases, and allowing more parking and

absolutely want to destroy that corner and put up a 400-foot garage down there. Hotelization is chasing out all the seniors from their building. All they want to do is to get rid of the seniors with all these condos and hotels. There are corporations living there and the hotel crew from the Marriott. This cannot be tolerated. If you want to preserve the historic view, how about preserving our historic view of the Ferry building? So these are all a bunch of lies, and she hopes that the Port doesn't listen to all these false recommendations. They are absolutely out of sync of what the plan recommends and what the community wants. They're not listening to the community. They have dozens of meetings. All they're getting is lip service. They have meetings; hear the community but they don't listen to what the community is telling them. It's about time they listened to them. They will not have open active recreation on ferry park. That park is too small. They've had public meetings. Everyone's against active recreation. Where do they get the nerve to come up with these things? It's enough to drive them up a wall. The community is affected, not the west side or the east side or any other side but their side. This is what they should be listening to, their side. This is what they need. This is what they need to have. They don't need to destroy a beautiful swim club which will destroy it by taking away five tennis courts.

Carolyn Blair, a resident in the area, a member of the Bicycle Coalition and the founder of the Tree Council, supports any kind of pocket park, any kind of landscaping, trees. She's a senior and would like her ride down the Embarcadero to be nicer, safer and it is not the way it is. She strongly urged the Port to redesign the Embarcadero so that it accommodates people that want to ride their bikes not like racehorses but slowly and safely and for parents to feel that their children can ride safely on the Embarcadero. She's not talking in a traffic lane. She's suggesting a multi-use path that clearly specifies where people walk and where bicycles can safely bicycle and enjoy the amazing views. One of the problems that they see happening now is that there are cars that are parked across or parked in the bicycle lanes and parked across driveways as well in the sidewalk area. She hates to mention a restaurant that does this quite often. It's a nice, pleasant restaurant, but maybe they can do something by expanding the loading zones outside so that they don't have to come on the sidewalks. She's talking about the Waterfront Restaurant. She apologizes to them if she's offended anyone but it is a problem. She strongly urged the Port to redesign the waterfront Embarcadero so that it can accommodate seniors, children for bicycling and more pedestrian enjoyment.

Tim Colen, executive director of the San Francisco Housing Action Coalition, indicated that they been working on this site for over two years. They strongly support the proposed project. He commended the terrific job that the Planning Department did on the recommendations they presented to the Port Commission. They're pretty unusual. They're very courageous to do something like that. They knocked it out of the park. His one quibble would be on the question of heights. Eighty-four feet is a very modest height at that site when the adjacent commercial building is six times taller than 84 feet. When

the closest residential building is three times taller, 84 feet is a cottage next to those. He's puzzled by the great controversy about this. Mr. Colen was stunned that there's a controversy about 84 feet being too tall. The buildings on the Embarcadero side are 40 or 50 feet tall. How is 84 feet too tall? It seems a little too finely nuanced there. More generally, there are two very starkly different views of the future use of that land. One is to preserve a surface parking lot or buy it and maintain it as a park. The other is going to bring high-density urban infill. It's transit-oriented; it's going to revive the waterfront and bring pedestrians and more uses to that side of the Embarcadero that badly needs it. It's going to open up Jackson Street to the waterfront, the view corridor that should be there, and is going to provide affordable housing to a city that badly needs it for families that sometimes cannot afford to stay in the city. It raises a question of equivalence that he hasn't heard discussed very much. At what point does a surface parking lot trump the value of an equivalent size publicly owned open space? He hasn't heard that discussion take place. At what point do five private tennis courts trump the value of 34 below market rate housing, homes for families in the area that might not otherwise be able to stay in San Francisco? He hasn't heard that conversation take place either. It's an important discussion because in the end, for the decision-makers of the city, it appears that there's one outcome that strongly favors a very narrow interest of local folks that live in the area and understandably are opposed to this, and on the other side there's a project that greatly benefits the larger interests of the city of San Francisco. It's a question that the decision-makers are going to have to decide where the equivalence in value is. He hopes that the Port has the courage to come down on the side of 84 feet, which is what makes all these benefits possible.

Lee Radner, Friends of Golden Gateway, indicated that he does not want to debate the gentleman who just previously spoke, but he would say offhand that there is more to this than just the local residents. He would also say that while he respects the urban design professionalism of Mr. Rahaim, he doesn't think he understands the historical aspect of this area. Going back to the produce market, the development through the Redevelopment Agency, the building of the Golden Gateway, all took a lot of thinking and planning. Part of that planning process was recreational space not only for this area but for many hundreds of families, youth, and seniors throughout this city. This is not a localized issue. It's one of the last if not the last remaining open recreational spaces that is open seven days a week. He can't understand how they can say they can open up the neighborhoods up Washington and Clay and other streets when they will put up 65-, 85-foot buildings and now they're going to have 35 on the corner. He'd like to know where the club or the open recreational space would be available. He would like to see that seawall lot developed as a park both passive and active. He concurs with the Bicycle Coalition to broaden the street for bicycles and have a continuity of park space from Washington all the way up to the Fisherman's Wharf area. We cannot allow this kind of glass and steel that is going to block the opening of the Embarcadero. For 170, if that's what they ended up with, high-priced

condos. We need a lot of low-income and middle class housing. If the developers are really so interested and have the heart of the city for themselves, then they should start building out at Port 70 and these other areas that really need some development. This is not a place to take it away for the most densely populated area of the city. He would appreciate that the Planning Department reconsider what they consider to be their development process.

Fred Allardyce thanked Mr. Rahaim for his efforts to try and bring the community together and look at the value of our waterfront, which we're all the shepherds of and we will be for as long as we're alive and participating in this. He asked him a sunshine ordinance question and would like to get his response in writing - how many visits has the Planning Department and its staff received by the 8 Washington Street partners group, including all the parties with Skid, Owings, and Merrill and all the various lobbyists that have been retained. He'd like to see how many of those have actually taken place up to this moment, in the years that they've been looking at this process and how many meetings has the public been invited to. Not the public workshop that took place where it was all coordinated and it was all planned so it came up well but the real meetings that the public has come in and said what their viewpoints are. They are dealing with a part of the city that has won many international awards. When the San Francisco Redevelopment Agency took over this project in the 1960s, one of the biggest challenges that they'd ever done, very controversial. It was in the paper for decades before they went ahead and leveled everything from Broadway to Market Street, gave the rights for the Rockefeller Portman Group to build the world-famous Embarcadero Center, which today still gets the highest rents in the whole West Coast in Embarcadero Four and allowed Perini Development Company in a bidding process where there were six international development companies to win the rights to build out the Keller building, the Golden Gateway Center, the Golden Gateway Commons, the Sydney Walton Park, which is owned for open space and which Perini paid nothing for, and the Golden Gateway Swim and Tennis Club, which Perini paid nothing for and was deemed to be a very high component of the recreational part of this whole neighborhood. The interesting process that 8 Washington Street as a developer wants to do in "opening up Jackson Street and Pacific Avenue to the public for getting access from Davis Street or Jackson Street to the waterfront" will totally change this neighborhood as of today. He's met with all four homeowners associations that live there, pay property taxes, and vote. The over 3000 homeowners or residents that live at Golden Gateway Center want to maintain their neighborhood like it is today. They don't want the general public coming through something that won many awards because it created a neighborhood that didn't have through-traffic, etc. So this process is very popular and may be good planning, but if he goes out and asks the people that pay his wages what the citizens want, this plan is not going to be acceptable.

Charles Dutkin, indicated that we shouldn't be dismissive of plans from another era. After all, after this era, there will be another era. So whatever we do here or don't do here could be dismissed in 20 or 30 years. His observation is very much like Mr. Allardyce's. The planning that went on for this area added thousands and thousands of residences. The planning was a result of give-and-take, compromise, lots of public input over five mayors. With a sweep of the hand to say that this is "from another era" shows there's no consideration or at least does not explain the consideration given to all of the planners who decided to integrate in the redevelopment plan all the office towers, thousands and thousands of residences, and to mitigate this new density, a lot of which were built on fill. There is a lot of controversy about all of this The developers wanted to build. The union people wanted the jobs and they got it all. Part of the deal was there was a T that ran right down in the middle of all this new construction, massive new construction. This T incorporated the Swim and Tennis Club and it was to mitigate and be available for the afternoon exercise, which it does, of these workers who come from Mill Valley and the peninsula and San Francisco and all the people that live in these thousands of new residences. They were to come down, play tennis, and swim. For a single planning, opaque planning operation to say that they're going to be so dismissive because it came from another era. He was there in the beginning of the era. He thinks it ought to last a little bit longer. The second thing is it's not a private club. It's a business. There are no members who are on the boards of directors. Members are not allowed. They have no equity. It costs nothing to join. He and his wife swim there for one-third of what it would cost to swim in a public pool. They don't need a public takeover of that area. It's run in a way that if he had to go to a public pool, it would cost them three times what they're currently paying.

Bill Benkavitch indicated that he's been in the neighborhood for 31 years, and he's a member of Friends of Golden Gateway. He commented on some of the words in the Planning Department study concerning the Golden Gateway Tennis and Swim Club. The study indicates that "The Golden Gateway Tennis and Swim Club is used by both the immediate residents, such as those of the Golden Gateway apartments, as well as by the general public. It is an important resource for these residents." There's more to this paragraph, but he pointed out that there is an extreme bias written into these words. Yes, it is an important resource for the Gateway residents as stated. The club is also an important resource for the city. The Planning Department statement dismisses the general public by saying, "Whether such a replacement facility serves a broader public beyond the immediate neighborhood, however, is not relevant to the current discussion." How can that statement go unchallenged? He challenged the Planning Department to rewrite this part of their study, and he looks forward to seeing it in December.

Bob Coleman, acting President of the Golden Gateway Tenants Association, indicated that there's a false perception that some of the local community groups are nimbys with regard to this kind of project. From his perspective, they're the local guardians of the larger public interest because they are there

and sort of the eyes and ears of the public. They've seen a few other proposals of this type. They looked at each one for its merits and for the maximum public benefit implicit in the plans. Their concerns, which have been described by the previous speakers, go to the heart of the historicity of the area and the sensitivity in terms of land use. They don't have simply local perspective. San Francisco is an international city. When one lives and works in the downtown area, they are coming into contact with tourist, visitors and even sometimes planning and land use experts from all over the world. They have a somewhat different point of view than we hear from the parts of the process that represent developer, stakeholder, or some other stake. The wisdom of it is that the soft edge is part of the uniqueness of the area. That the monolithic hard edge that we see in other cities, which is sometimes described as a goal of planning, is softened in San Francisco. San Francisco is a very diverse and very iconoclastic city. He referenced a point that was made about the history of this area in terms of the project. It's very important to understand that what we have now was a remedy for a problem on the hard edge. The original waterfront had soft edges and then became hard and then was softened. What we have now is an existing remedy for a previous problem. We don't need to reinstate that kind of a problem with inappropriate density, with inappropriate height, and something that really would harm the very signature character of San Francisco, the view lines, and the kind of access that we really need. We have to be careful. It's not just a matter of, "Oh, well, we don't want our thing messed with." They really are not a nimby group. They never have been and they've walked that talk for a long time. They're looking to dialogue with everybody. They been invited to give input, and they're going to but they'd like to be heard. They'd like to be heeded.

Jan Blum, an interested citizen. asked the Planning Department if they could pull up the slide that shows the plan development of 8 Washington in terms of the height limits, the blue glass cube, and tell them if it fits into the recommended heights for that particular block because Coit Tower looked about half an inch tall in that, and it looked locked to be in that view quarter.

Commissioner Lazarus thanked Mr. Rahaim and the other members of his department for taking this on. The Port put quite a bit of pressure on them to move this along and really appreciate the time and professionalism that's been invested in this. Mr. Rahaim talked about a series of steps and then going back to the Planning Commission. She asked what would come out of the Planning Commission that might eventually come to the Port Commission to work with.

Mr. Rahaim replied that staff will present this study to the Planning Commission to be adopted or endorsed. The exact terminology has yet to be worked out. The most recent comparable study they've done is for the upper Market area, the last three or four blocks of Market toward Castro Street. That was a similar study in that it didn't look at a comprehensive set of neighborhood land uses. It looked at pretty much the same issues they looked at here. It was endorsed by the Planning Commission after a similar

kind of process that they took here. They anticipate that would happen at the Planning Commission. It would include guidelines for the public realm, the streets and open spaces; guidelines for buildings in the area; and then recommendations for future actions.

Commissioner Brandon thanked Mr. Rahaim and his staff also for taking this on and helping the Port with this process. She looks forward to the recommendations coming soon.

Mr. Rahaim thanked the Commission as well. Mr. Rahaim responded to some of the speakers' comments. He understands that there are always the vagaries of time and language when they make these presentations. To the gentleman who was concerned that he dismissed previous eras of planning, his comment was not based on dismissing everything that happened there. Clearly the whole Embarcadero Center and Justin Herman Plaza and the parks are a very important part of San Francisco's legacy, which they have no intention of negating or suggesting was inappropriate. He was specifically referring to a situation on the first floors of those projects along those streets. In today's era, most would agree that we would not want blank walls of buildings with parking along the edges of our streets. It doesn't create an inviting urban environment. That's the one issue he was referring to. Clearly Golden Gateway and Embarcadero Center and the parks and open spaces have a tremendous value to the city and were great examples of planning in those eras, which he believes strongly is something we should look at more often. It was that specific issue of how those buildings meet the street that he was referring to in his comments.

Commissioner Hardeman agreed with Commissioners Lazarus' and Brandon's comments about the expertise, time and effort they have put into this study. It's a very controversial subject matter and somebody has to take it on. He brought up great cities like Copenhagen. He was there a couple years ago. He was fortunate to also go to Sydney and Melbourne, Australia this year as well as St. Petersburg. He was able to see how other cities work with their water and their structures. Some of it is extremely beautiful. Dealing with heights is a very sensitive issue, but it's also an issue for 800,000 San Franciscans, 9 million Bay Areans, 35 million Californians and other visitors. We have a responsibility to represent the whole community, the whole area, the whole state. Mr. Rahaim's forward-looking approach is where we might be headed.

Commissioner Shakofsky also commended the Planning Department and the director's efforts. She participated in almost all of the charrettes. She particularly found very worthwhile the last charrette where they were broken up into smaller groups, and they were able to, through a facilitator, share their ideas and thoughts about the proposals put forth by the Planning Department. It was very good back and forth for those who were at the workshop. She had at her table a good mix of Port Commissioner and some neighbors and some broader civic-minded groups. There was a healthy back-and-forth and good

dialogue. Some of the community members -- the Golden Gate residents actually walked her to her car at the end of the night. The process was the first of these series of meetings where some really good give-and-take was had. Some people began to see sort of walking in other people's shoes. She'd love to see more of that work. It was very helpful. The recommendations the Planning Department put out with respect for the community, respect for the neighborhoods, respect that this a citywide, civic plaza and the views and neighborhoods should be respected. All very key professionally developed opinions that were laid forth. What we need to see added to that as we move forward is more community support. We also need to look at economic viability of this project as we move forward. She fully respects and commends the process that the department has gone through.

Commissioner Shakofsky indicated that we are engaged in an exclusive negotiating agreement with the Pacific Waterfront Partners on this particular piece of property. She asked with the principles that the Planning Department has put forward, how do we see that moving forward with the negotiations with the developer.

Kathleen Diohep, Planning and Development and project manager of the development agreement, replied that the exclusive negotiating agreement was structured once the Planning Department finished their study and made their recommendations, for the developer to give us a refined proposal within 90 days. The developer gave us in December of last year a physical proposal, the drawings and the designs, and included economic terms of how the rent would be, how it would be structured. Once we get this new guidance on the physical parameters, we've asked them to come back with that. Our next step with them would be to negotiate a term sheet, which we would bring to the Port Commission for review and would also go to the Board of Supervisors for review so we could get that early buy-in and agreement to the project before we would take it all the way through the other steps of the process.

Commissioner Shakofsky asked about the timeline. Kathleen Diohep replied that the developer has 90 days after the recommendations are finalized from the Planning Department. The developer will come back and provide a revised proposal. It's going to depend on how hard those negotiations go for and how we structure those agreements.

Commissioner Fong appreciates the Planning Department's effort. The Port gave them a short deadline, and they were able to make it. He acknowledged that Port staff spent a lot of time and money on this as well. He also thanked the residents because they've spent dozens of hours giving comments. Some of their comments have been heard multiple times. Whether everyone's satisfied 100 percent, he's not sure. He knows that the Planning Department is looking at the city citywide and looking at the grid of all the streets and how this beautiful city can be improved even more with view corridors. There are a couple things that caught his attention. The streets that end at the Bay and being able to connect these east-west streets to the Bay are significant.

These view corridors are really significant. If we thought San Francisco was pretty now, it can be even yet better. As Bob Coleman mentioned, being advocates for the maximum public benefit, he thinks that the work that the Planning Department's done looking at international cities as other examples, looking at the city overall, how we can all benefit from this is important to keep in mind. He thanked Mr. Rahaim, his staff and Port staff for all their efforts.

Brad Benson indicated that it might be useful for the public to understand the next steps. Mr. Rahaim mentioned about the December workshop, publishing the final report, and a possible Planning Commission endorsement of the work. He asked if he could provide a flavor of the timelines for those.

John Rahaim replied that they don't have a date for the December workshop yet, but they anticipate sometime in the first half of December. To have a public workshop where they will present their final recommendations, to explain those recommendations. After that, they will present it to the Planning Commission. My guess at this point would either be toward the end of December since their last meeting is in the middle of December. It would either be then or early in January when they would present their final recommendations to the Planning Commission. So it would be a December/January timeline.

Pertinent to the Commission's question about the Port's agreement with the proposer on 8 Washington, his guess would be that when they provide their final recommendations in December is when the 90-day clock would start ticking.

Commissioner Lazarus asked once the Planning Commission acts, would it come back to the Port Commission to ratify the study before Port staff could go back to work on it.

Kathleen Diohep replied that we would do it from that perspective. This study stepped way back to these planning guidelines. What we have from the developer is a proposal for a specific project. We've structured it to come back and ask for a revised proposal from the developer that responds to these new guidelines that we would then work with and present to the Commission to get some new direction or guidelines. We had structured the ENA to have the developer respond to the Planning Department's guidelines. We also see that in the sense of time, the issues about the height, the look, the massing of the buildings always come out and often come late in the process. We're hoping that with the Planning Department's input and direction, public vetting can happen early so that we can get these guidelines and perspective for the size of the project. When do come forward, it's more fleshed out with the rents and the deal terms for a building and we've got a directive that works. It appears that this is going to be a change of the zoning. The zoning is always somewhat set. There has to be certain setbacks, certain changes. It's how the project should fit within that zoning, the very specific

building. We don't know yet what the Planning Department is considering – whether it's a legislation on new rules or new zoning.

Brad Benson added that after the Planning Commission considers the report and makes its decision about whether it would like to endorse the report, Port staff could bring that final product back to the Port Commission and ask the Commission to accept it or take whatever appropriate action is necessary.

Kathleen Diohep added that on February 24, 2009, the Port Commission approved a 21-month period for the exclusive negotiations. We have a time period within to work this through.

John Rahaim indicated that they have to think through when the appropriate time would be to have the Planning Commission act. In listening to the discussions, it may be more appropriate to see if they would act in December. In terms of their own public process, they need to think about it because he would like them to have a meaningful input in this study and be able to get information to staff about their concerns. He'd like to get back to Port staff on the specifics of how that timing might work. It's might be a little different than what he described earlier.

Commissioner Fong indicated that the Port Commission and staff look forward to hear back from Mr. Rahaim for the next steps.

9. REAL ESTATE

A. Request approval of partial fee waiver of $208.34 per month and security deposit waiver of $416.68 for License to Use Property No. 14527 between the Port of San Francisco and the Pilara Family Foundation, a Nevada Non-Profit Corporation for premises located at the Pier 24 Annex. (Resolution No. 09-67)

Jeffrey Bauer, the Port's leasing manager, indicated that since 2007, the Pilara Family Foundation has occupied Pier 24 annex building pursuant to Lease Number 14414. The lease required the Pilara Foundation to make a significant investment in tenant improvements.

The project is now complete, and the cost exceeded $12 million. All the improvements are compliant with the Secretary of Interior's standards for the rehabilitation of historic buildings. As part of the project approval process, the tenant was required to provide by the San Francisco Bay Conservation Development Commission public access space.

The Port and the tenant had drafted a License to Use Property Number 14527 to provide for approximately 947 square feet of the Pier 24/26 rail bed that will provide public access and also the installation of certain improvements. The improvements include a new gate, waterfront history wall to display historic waterfront photos owned by the tenant, and to provide access to the public to view the Bay. This portion of the project costs

approximately $750,000. The license also provides for an ADA-compliant access ramp that will also provide a secondary exit as required under the Port's Building Code. Port staff agrees that the monthly rental fee and security deposit for the public access area should be waived based on the following criteria: There are no other uses for the space during the term of the license that would generate rent to the Port and no other uses would be displaced. The Port will not be expending any resources or revenues to support this use. There is a direct benefit to the Port in that this public space will enliven the waterfront by attracting people to the waterfront to view the photos and enjoy the public access. Staff recommends the Port Commission adopt the attached resolution approving the license to use property between the Port Commission and the Pilara Family Foundation with a partial fee waiver and security deposit waiver.

Simon Snellgrove, Pacific Waterfront Partners, provided a brief presentation on Pier 24. Mr. Snellgrove indicated that they were retained by the Pilara Foundation several years ago to find a site for their extensive collection of photography. They looked at many sites, and going back to Kirk Bennett and the days when this project was put out to bid and there were no interested parties. They had looked at it about 2000. It was condemned in about 2002. They were lucky that they introduced the site to Mr. Pilara and he agreed to take it on behalf of his foundation.

The site is located at Pier 24 annex; right underneath the Bay Bridge, right next to Pier 26. Pier 24 was actually burned down; it's now next to the historic fireboats. It is a wonderful site, very edgy, a terrific example of the waterfront.

They are the development manager. The use of the facility is for a photo warehouse. It is the largest photo museum in the United States. Mr. Pilara has a 10-year lease term. It costs $12 million for about 27,000 square feet.

He showed a slide that shows the condition of the pier when they got involved. He showed a picture of the eucalyptus woodpiles encased in concrete with pretty much everything else rotten. They did an extensive retrofit of the sub-structure.

He showed a before-and-after construction picture of the interior of the pier. He showed a picture of an area of what is the public gallery part of the museum, which is to the south side of the building, the reception area. They worked very closely with Mark Paez from the Port staff to ensure that it met the standards of the interior preservation.

He showed pictures of the side of the building being removed and windows being installed. He also showed pictures of what the interior looks like now in that corner where the windows are. He showed the area that Jeff was talking about, which is the railroad passage between Pier 26 and the building. He showed a picture of what it looks like now. That fence at the end is the

termination of a public viewing gallery that goes all the way out to the Embarcadero.

He showed a picture of the same public area that is seen from the Embarcadero looking out towards the bridge so the public's able to come up there and see the Bay, enjoy the view. He showed a before and after picture of the exterior of the building.

He recognized the Port as the landlord and thanked everybody who worked with them: the Pilara Foundation, the contractor Plant Construction, the architect COA, interior designer Envelope A+D and MWA Architects who also worked with them on Pier 1½ , 3, and 5, structural engineer Holmes Culley, Glumac International and Horton Lees Brogden Lighting Design.

He thanked Executive Director Moyer, the acting executive director, Brad Benson, for everything they did and Susan Reynolds, the director of real estate. People forget how many people on Port staff are actually involved in this: Jeff Bauer, who is the leasing manager who made the deal with them. Dan Hodapp, Mark Paez, David Beaupre, Diane Oshima, Mark Lozovoy, Joyce Chan and Elliott Riley.

It was a great project; the only project that's gotten done since Pier 1½ , 3, and 5. They're very happy to have had the opportunity to contribute to the waterfront.

ACTION: Commissioner Hardeman moved approval; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor. Resolution No. 09-67 was adopted.

Jeff Bauer indicated that the first whereas clause of the resolution should be Charter Section B3.581, not 63581.

ACTION: Commissioner Hardeman moved approval of the resolution as amended; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor. Resolution No. 09-67 was adopted.

10. NEW BUSINESS

11. PUBLIC COMMENT

Keith Saggers, pedicab owner and member of the Bicycle Coalition, indicated that his issue today is a safety issue - the double-parking of cars in the bicycle lane in front of the Ferry building. This causes a hazard for bicyclists who have to leave the bicycle lane and enter a car lane to continue their journeys. It appears that a section of the white curb is being used for long-term parking, making less space available for short-term parking as intended. He suggested that all of the white curb be made available for short-term parking. This would improve safety and could be used as a model for other popular destinations on the Embarcadero.

Ernestine Weiss indicated that she would like to make one thing perfectly clear. There is no nimby involved in 8 Washington Street because she personally helped Simon Snellgrove with Pier 1½ , 3, and 5, which ultimately got an award for a fine architecture. Forget about nimbyism. This is not so in this case. Two previous developers looked at this lot and were defeated, for good reason. Because it's not workable. The only one who came up, who had the moxie to come up with this is Simon Snellgrove. No other developer came before the Port because they know they're up against ridiculous odds and ridiculous factors, which she stated previously. She suggested that the Port talk to the immediate community, not the city community. They are the ones who are impacted the most, and these are the people the Port should listen to. Never mind Tim Colen from the west side and all the other outside people who don't even know what they're talking about because they don't live here. Washington Street, Clay Street and Broadway are all view corridors. There's no need for more openings. They need to protect Golden Gateway's view the same way the Port is religiously going to help Coit Tower as an icon. They're an icon, too. They are affected because of the Ferry building. Their view should not be blocked with a 84-foot tower. That zoning has to be changed because this is no longer relevant. Why does the Port want to have more buildings like the Watermark? That's the ugliest development that ever took place on the waterfront. There's no need more for that, especially in the northeastern corridor. We have a chance to make it a beautiful waterfront. This is not Europe, Miami or Hamburg. San Francisco is not any other place. San Francisco is unique. We should treat our city the way it deserves to be treated, not to mimic other places that were created thousands of years ago. We are into the 21st century. Let's do something significant. Let's not go backwards. Let's go forward. The staff's goal is to carry out the taxpayers' wishes, not political pandering. Her ex-friend Willie Brown is behind this project. He is the worst. He betrayed her with Sue Bierman Park. He betrayed his family with other personal things. He's not very reputable. Let's not do political pandering. Let's do what's right for the people. They pay everybody here in this city. Let's carry out their wishes, not political pandering.

12. ADJOURNMENT

ACTION: Commissioner Lazarus moved approval to adjourn the meeting; Commissioner Hardeman seconded the motion. All of the Commissioners were in favor.

Commission President Rodney Fong adjourned the meeting at 5:12 p.m.

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